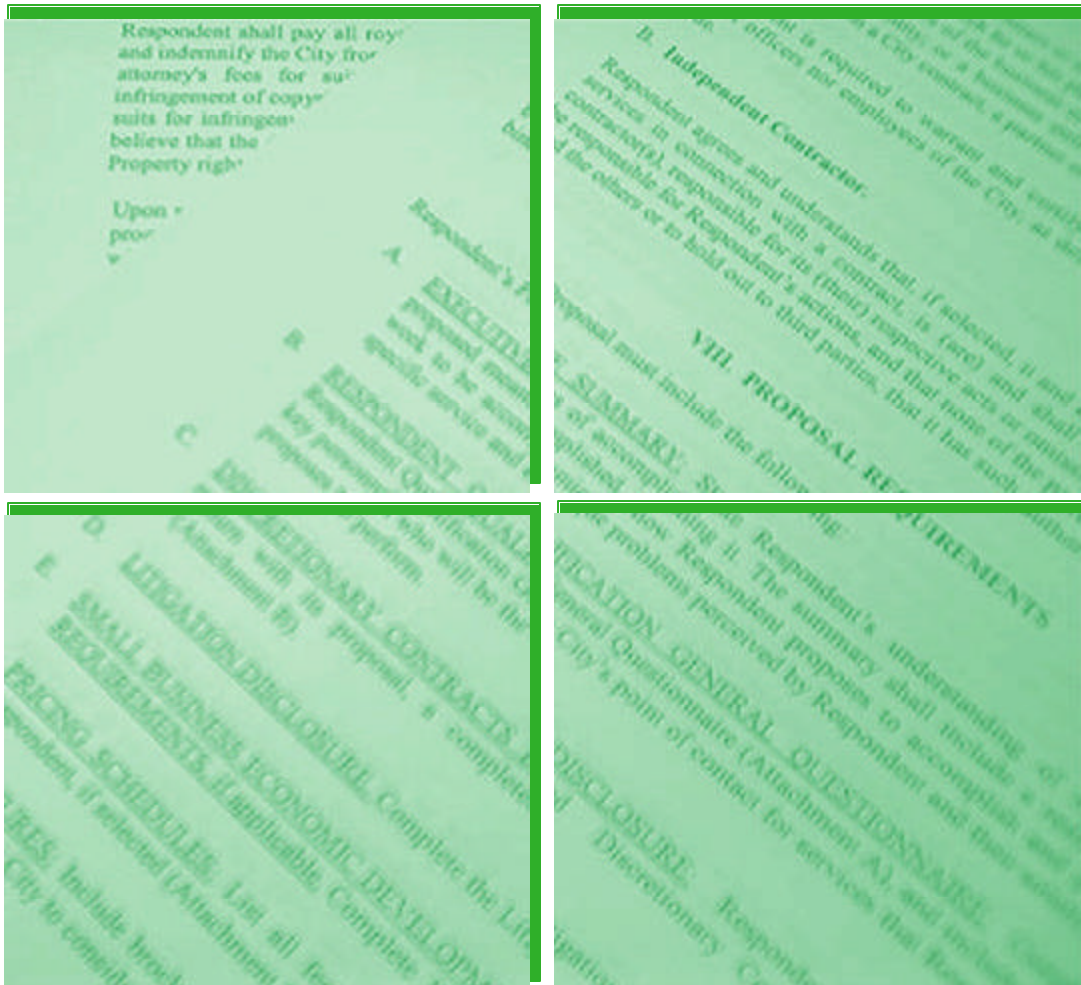


City of San Antonio

CONTRACTING POLICY & PROCESS MANUAL





City of San Antonio Contracting Policy & Process Manual

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CITY MANAGER'S MESSAGE



***As employees of the City of San Antonio,
we are the stewards of public funds. . .***

There are few other declarations that should be so meaningful to City employees. In many ways, the advancement of quality of life for the citizens of San Antonio depends on our stewardship of City resources.

To help meet that responsibility, we have developed contracting policies and processes over the last year that not only promote the safeguarding of public funds, but also ensures that City spending is not used to confer undue consideration upon selected constituents. Adherence to the policy and procedures contained within this manual will help make certain that tax dollars are used appropriately and that all responsible contractors are given an equal opportunity to compete for City contracts.

The City of San Antonio is undergoing dramatic changes in the way it conducts business. Systems are being updated, departments have been reorganized and realigned, and goals and objectives are being subjected to more intense scrutiny. In light of this transformation, it is important that our contracting practices be able to accommodate constantly changing business requirements. To that end, we have developed this manual to be dynamic, designed to reflect not only the evolution of our systems, but the constant improvements we make to our business practices, as well.

Reading this manual and complying with the policy and procedures that are outlined are required to truly transform our business processes and engender confidence in our practices. Moreover, please remember that in our role as guardians of taxpayer dollars, we are bound by the implicit values and principles that advance both impartiality and equity in the conduct of City business.

Thank you for your cooperation.

Terry M. Brechtel
City Manager

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EXECUTIVE SUMMARY

In the Spring of 2001, the San Antonio City Council commissioned a performance review of the City's contracting practices. The results of that study – "Performance Review of the Business Contract Management Process and City Attorney's Office" — were presented to City Council and City Management in May 2001. The report suggested that City contracting processes could be improved upon; that, in fact, processes were "inadequate to meet the demands of an increasingly dynamic operating environment." The most conspicuous omission was a "lack of citywide standards".

In July 2001, the City Council approved an ordinance creating the Contract Services Division, whose goal would be to implement the recommendation of the performance review: to develop and/or improve City contracting process infrastructure. Placed in the Department of Asset Management, this organization was also charged with developing technological tools that would promote improved contracting processes and contract administration, providing contracting training, and serving as the City "contracting ombudsman."

The first challenge was to develop a database that would serve as the City's sole repository for contract information. Working hand-in-hand with the Information Technology Services Department, the Contract Services Division developed and implemented the Electronic Contract Management System (ECMS) in early Fall 2001. Since then, the input of contracting data into the ECMS has become an important component of improved City contracting processes.

Beginning in January 2002, the focus turned from technology to policy and process development. The Contract Services Division began meeting with various departments to identify and diagram City contracting procedures. Upon the conclusion of the "as is" assessment, staff went to work modifying and/or developing the contracting processes identified in this document. This *Contracting Policy and Process Manual* is the result of those efforts. It is intended to provide staff with contracting policy, and to comprehensively describe the step-by-step procedures that should be engaged in order to take a specific contracting initiative from its conceptual beginning to the ultimate conclusion of a contract's term.

The reader of this document should recognize that the City is undergoing fundamental changes in the way it conducts business. Business processes are being evaluated and, when necessary, are being modified to reflect and accommodate changing business requirements and priorities. Additionally, the City is embarking on the implementation of a new financial management system, which will significantly impact the way the City conducts business.

This document has been designed to reflect these changing business practices. It will be updated frequently to ensure the contracting processes the City employs will accurately track procedures that will inevitably change as a result of system and process modifications.

The Contract Services Division of Asset Management is prepared to help you comply with policies and processes described in this manual. If you have any question regarding contracting policy and process, please call the Contract Services Division staff:

Mark Webb, Assistant Director	207-7039
Billy Powers, Special Projects Manager	207-2074
Bruce Martin, Special Projects Coordinator	207-2079
Deborah Segovia, Special Projects Coordinator	207-2237
Anna T. Galimore, Special Projects Coordinator	207-2102
Norbert Dziuk, Special Projects Coordinator	207-2078
Maggie McCoy, Senior Administrative Assistant	207-2073

INTRODUCTION TO THE CONTRACTING POLICY & PROCESS MANUAL

This manual has been designed to serve as a “one-stop” resource for contracting and procurement policy and process. While readers are encouraged to familiarize themselves with the total content — particularly if the reader is a City Contracting Officer — this manual has been laid out in such a way that one can examine particular chapters and sections separately.

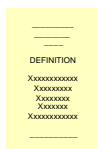
Please read the following for additional instructions regarding this manual. The section below can help you to quickly locate instructions specific to your current project as it provides an overview of how the information is organized and presented throughout the manual.

How to Use this Manual

This manual is divided into five (5) chapters, four (4) of which contain several sections devoted to specific topics, and an “Appendices” segment that contains sample documents, contracts and other forms related to City of San Antonio contracting policy and process.

- Chapter 1, “Policy, Ethics & The Law Governing City Contracting,” sets forth the City’s policy, specific authority and organizational responsibilities as they pertain to its contracting and procurement processes, as well as the history of the Code of Ethics development, state law governing municipal contracts and information about contractor suspension and debarment actions.
- Chapter 2, “Contracting Roles and Responsibilities,” describes the City’s decentralized contracting organization and explains the roles of specific departments/divisions as they relate to City-wide contracting initiatives.
- Chapter 3, “Competitive Solicitations,” defines the different types of competitive procurements, when they should be used, and how to properly evaluate responses received.
- Chapter 4, “Contracting Processes,” provides an overview of contractual risk and defines and documents the process steps to be taken to initiate and monitor various types of municipal contracts. Sixteen (16) of the eighteen (18) sections are devoted to a specific contract type and most contain a graphic illustration [flowchart] of the process.
- Chapter 5, “Electronic Contract Management System (ECMS),” describes the background, purpose and capability of the ECMS database.

The chapters and sections are arranged so the user can locate most of the information needed to begin work on a particular contracting initiative. In addition, we have used several different layout styles to help distinguish between the different types of information being provided. Below are “thumbprints” of the conventions that are used, along with explanations of what they signify:



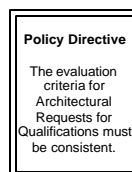
Yellow-shaded margin boxes contain the definition of the contract type discussed in each section of Chapter 4.



Green-shaded margin boxes contain additional information unique to the topic being discussed.



Flowcharts for the most common contract types are located at the end of each applicable section in Chapter 4, and are intended for illustration purposes only.



Double-framed boxes appearing in the margin notes contain contracting policies that must be adhered to in all.

http://www.gpo.gov/su_docs/aces/aces140.html
Sample

The hyperlinks that appear in the manual provide access to other government publications for additional information on-line, while the word “Sample” appearing in hyperlink font links to the sample document, contract or form under discussion.

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Chapter 1

Policy, Ethics, & Law Governing City Contracting

OVERVIEW

The purpose of this chapter is to set forth the City's policy and specific authority as they pertain to contracting processes and to provide information regarding the Code of Ethics, state law governing municipal contracts, and suspension and debarment of contractors.

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Contracting Policy

It is the policy of the City of San Antonio to accomplish all contracting and procurement initiatives in accordance with applicable federal, state, and local laws. Further, staff responsible for the conduct of contracting and procurement, will adhere not only to the specific rules described within these laws, but will also respect the essential ethical tenets that provide the foundation for honest and proper business conduct.

City staff engaged in the conduct of procurement and contracting will ensure that:

- All transactions for goods, services, and property are accomplished through an appropriately authorized and executed legal document.
- To the extent possible — in accordance with federal, state, and local law — purchases for goods and services will be subject to a competitive solicitation.
- Only the Executive Management Team, Department Directors and Assistant Directors, Attorneys and Certified Contracting Officers, will conduct contracting and procurement initiatives.
- All contracting initiatives will be coordinated with and approved by the City Attorney's Office.
- Staff will conduct contracting and procurement initiatives in accordance with the rules and guidelines described within this manual.

Small Business Economic Development Advocacy (SBEDA) Program

It is the policy of the City of San Antonio to involve Small, Minority, Women and African-American Owned Business Enterprises (S/M/W/AABE) to the greatest extent feasible in the City's discretionary contracts. The intent and purpose of the policy is to ensure that S/M/W/AABE firms have the opportunity to compete for City contracts without discrimination on the basis of race, color, religion, national origin, age, sex or handicap. To accomplish the objectives of the SBEDA policy, the City has established specific goals for local S/M/W/AABE participation. For additional information on the SBEDA program, visit www.sanantonio.gov/edd or call the Economic Development Department's Small Business Outreach Office at (210) 207-3910.

City ordinances require that SBEDA requirements be included with a weight of 20% for all professional services and discretionary contract RFPs in which the estimated cost exceeds \$25,000. The 20% is allocated as follows: 10% Local Business Enterprises; 5% for companies designated as Historically Underutilized Enterprises (HUEs); 5% Prime Contractor compliance with SBEDA policy. SBEDA requirements are subject to revision by City Council.

It is recommended that all draft RFP/Qs be provided to the Economic Development Department for review prior to release of solicitation.

Contracting Ethics

The City of San Antonio has adopted a Code of Ethics that establishes standards of conduct, disclosure requirements, and specific enforcement procedures for City staff and elected officials — both current and former — as well as candidates for public office, lobbyists, and individuals and firms doing business with the City.

As stated in the Code of Ethics:

“It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs. . . By prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this code of ethics furthers the legitimate interests of democracy.”

All staff engaged in contracting and procurement initiatives must adhere to the specific requirements contained within this Code of Ethics. Ethics Advisory opinions from the City Attorney's Office may be viewed at <http://www.sanantonio.gov/atty/ethics/advisory.htm>. To obtain additional information about the City's Code of Ethics, please contact the City Attorney's Office.

To view the Code of Ethics online, please click on the following website:

<http://www.sanantonio.gov/atty/ethics/codetext.htm>

CODE OF ETHICS DEVELOPMENT 1998 - 2002

1998			2002
	November 19, 1998 Ordinance 88874	August 19, 1999 Ordinance 90313	May 24, 2001 Ordinance 93998
	A Code of Ethics was adopted by City Council ordinance at the recommendation of the Mayor's Task Force on Ethics in Government. An Ethics Review Board was also established with this ordinance. The Code of Ethics created a standard of conduct for present and former city officials, employees, city business partners, lobbyists, and others. This ordinance required the aforementioned individuals to file financial disclosure statements annually and instituted enforcement mechanisms such as \$500 fines for violations.	The City's Code of Ethics was amended to adopt four new conduct standards. Spouses of persons who do business with the City are required to report contributions to City Council members that total \$100.00 or more. City officials and employees are to annually report gifts received. Lobbyists are required to pay a fee when registering with the City Clerk's Office as a lobbyist. Government legislators are excluded from lobbying City Council while in session and City Council members are excluded from being lobbyists while the State Legislature is in session.	The 1998 Code of Ethics and amendments (from 1999) were revised to create the Ethics Code of the City of San Antonio. This occurred based on the Mayor-appointed Joint Committee on Ethics' evaluation of issues that occurred since January 1, 1999 when the 1998 Code of Ethics came into effect. The newly created Ethics Code of the City of San Antonio is the standing authority of ethical conduct for current and former city officials, employees, persons who do business with the City, lobbyists, members of the public, business entities and nonprofit entities.

The Law Governing City Contracting

While many laws exist that may affect individual contracts, certain statutes are relevant to many City procurements. Contracting Officers should be familiar with these statutes, but should continue to utilize the services of the City Attorney's Office for guidance. If the City will be spending federal dollars, then there will certainly be federal regulations pertaining to the expenditure, as well. The Contracting Officer must ascertain what federal regulations are implicated by the expenditure. Some links to federal sources of information are provided below. The City Attorney's Office and the Office of the City Auditor can provide guidance regarding expenditures of federal money.

This section also provides links to relevant state statutes that govern a large number of City contracts. However, laws are subject to change whenever the State Legislature is in session. One way to see whether a law is being revised while the legislature is in session is to check the Index to Sections affected on the State Legislature's website. Since it may also take a year before changes appear on the websites shown, it is prudent to continue to check the Index when relying on a statute. Statutes cannot, however, be read in a vacuum. Laws are subject to interpretation by opinions issued by courts (known as common law, or case law). A court can also rule a statute unconstitutional. The law may still continue to appear in the books, but have no force or effect. Therefore, while being familiar with the law will enhance contracting initiatives, it is still imperative that Contracting Officers continue to utilize the services of legal counsel.

For a general overview of contracting law and process, see "[Contract Law & Process: A Guide for Contracting Officers](#)" Vol. I/ 2002

Texas Law

Texas Local Government Code, Chapter 252

Governs procurement of goods, non-professional services, high technology and insurance

www.capitol.state.tx.us/statutes/lg/lg0025200toc.html

Texas Local Government Code, Chapter 271, Subchapter H

Governs procurement for construction of facilities (see also Chapter 252 above)

www.capitol.state.tx.us/statutes/lg/lg0027100.html#lg064.271.112

Texas Business & Commerce Code, Article 2

Governs the sale of goods

www.capitol.state.tx.us/statutes/bc/bc0000200toc.html

Texas Government Code, Chapter 2254

Governs procurement of professional services

www.capitol.state.tx.us/statutes/go/go0225400toc.html

Texas Government Code, Chapter 2258

Governs payment of prevailing wage rates by contractors

www.capitol.state.tx.us/statutes/go/go0225800toc.html

Texas Labor Code, §406.096 and Title 28 Texas Administrative Code Chapter 110

Governs workers compensation coverage for contractors' employees

Labor Code: www.capitol.state.tx.us/statutes/la/la0040600toc.html

Administrative Code:

[info.sos.state.tx.us/pub/plsql/readtac\\$ext.ViewTAC?tac_view=3&ti=28&pt=2](http://info.sos.state.tx.us/pub/plsql/readtac$ext.ViewTAC?tac_view=3&ti=28&pt=2)

Texas Government Code, Chapter 2251

Prompt Payment Act – Governs time for payment of invoices

www.capitol.state.tx.us/statutes/go/go0225100toc.html

Texas Government Code, Chapter 791

Interlocal Cooperation Act – governs cooperative contracts between local governmental entities for the performance of governmental functions and services. www.capitol.state.tx.us/statutes/go/go0079100.html#go002.791.002

Texas Legislature Online

Official State of Texas website

Provides links to all Texas Statutes and Texas Constitution, and Index to Sections Affected. Also tracks history of bills introduced during each legislative session. www.capitol.state.tx.us/capitol.htm

Index to Sections Affected

www.lrl.state.tx.us/isaf/

Federal Regulations

Federal Government Website listing parties excluded from eligibility for contracts using federal funds. <http://epls.arnet.gov>

OMB Circulars

www.whitehouse.gov/omb/circulars/index-slg.html

Federal agencies administering funds for programs issue codified rules implementing circulars. Check with the applicable agency to ascertain the specific rules under which your federally funded program operates.

Records Retention

Texas law requires that the Texas State Library and Archives Commission shall issue records retention schedules for each type of local government, including a schedule for records common to all types of local government. The records control procedures of a local government may not set a retention period for a record that is less than that established by the Library and Archives Commission. To obtain the retention schedules issued by this commission, go to www.tsl.state.tx.us or click on the links below:

- [Records of Public Works and Services](#)
- [Records of Public Health Agencies](#)
- [Records of Public Safety Agencies](#)
- [Records of Justice and Municipal Courts](#)
- [Records of Elections and Voter Registration](#)
- [Records Common to all Local Governments](#)

Note: Some grant funds may require different record retention schedules than these listed above.

Contact the City Attorney's Office for questions regarding record retention requirements.

Principals for Debarment

Principals, for the purpose of certification for suspension or debarment means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

Suspension and Debarment

Debarment is an action to exclude individuals or companies from contracting with an organization, such as the federal, state, or local government.

The purpose of debarment is to protect the government from risks associated with awarding contracts to individuals or companies that have exhibited an inability or unwillingness to fulfill contractual requirements. Debarment also protects the government's interests by preventing individuals or companies who have displayed improper conduct from participation in the government's business for specific periods of time.

When using Federal funds, the City of San Antonio shall not award contracts, purchase orders, pass-through grants, or any other means of acquisition to individuals, companies, or delegate agencies that are on the List of Parties Excluded from Federal Procurement & Non-procurement Programs. This rule applies to procurement contracts for goods or services and to all non-procurement transactions, such as sub-awards to sub-recipients. In addition, individuals, companies, or delegate agencies awarded Federally-funded contracts by the City may not subcontract with firms on the List of Parties Excluded from Federal Procurement & Non-Procurement Programs.

If not performing the contracting internally, departments shall assume the responsibility for alerting the contracting entity (Purchasing, Public Works, Contract Services, etc.) when Federal funds are used.

Departments serving as the contracting entity when Federal funds are used - regardless of dollar value - shall be responsible for checking the List of Parties Excluded from Federal Procurement & Non-Procurement Programs, which is available on-line at <http://epls.arnet.gov>. If an individual or company being considered for contract award with Federal funds is found to be on the list, the contracting entity shall advise the City Attorney's Office and Management Team representative prior to rejecting the individual or firm for award and proceeding with award to an alternate individual or company, as directed by the requirements of the Federal agency or department.

Bidders and respondents to Federally-funded solicitations are required to certify that neither they nor their principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency. Sample certification language for use with Invitations for Bid, Requests for Proposal, and Requests for Qualification is located in [Appendix A](#).

In addition, by signing a contract agreement utilizing Federal funds, individuals and companies shall certify that neither they nor their principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal agency or department. The Federal agency or department funding the contract will supply the certification clause and provide direction for its use; however, the sample certification clause in [Appendix B](#) may be incorporated in the contract agreement if a certification clause is unavailable from the Federal agency or department.

Sample Contractual Language Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

_____ certifies, and the City relies thereon in execution of this Agreement, that neither _____ nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department;

“Principals”, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

_____ shall provide immediate written notice to City, in accordance with Article _____. Notice, if, at any time during the term of this contract, including any renewals hereof, _____ learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

_____’s certification is a material representation of fact upon which the City has relied in entering into this Agreement. Should City determine, at any time during this Agreement, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the City may terminate this Agreement in accordance with Article _____. Termination.

Avoiding Costly Pitfalls When Using Federal Funds

Will the City be using Federal funds? If so, be aware that the City cannot contract with or make subawards to parties who are suspended or debarred by the Federal government. The prohibition exists even if a principal of the party is suspended or debarred. This rule applies to procurement contracts for goods or services and to all nonprocurement transactions, such as subawards to subrecipients. Contractors and all subrecipients must certify that the organization and its principals are not suspended or debarred. IT IS CITY POLICY that the Contracting Officer verify the certification, by checking the List of Parties Excluded from Federal Procurement and Nonprocurement Programs at <http://epls.arnet.gov/> at the time bids or proposals are received, and again just prior to award. Failure to follow the rules may result in loss of the federal funds, or even suspension or debarment.

Prohibited Lobbying of City Staff

There are three “communication” phases of a contracting initiative which include: a) the period prior to issuance of the solicitation; b) the period during the solicitation; c) the period after the responses have been received and evaluated, but prior to Council approval.

Prior to issuance of the solicitation, open communication between potential respondents and City staff is permissible. However, once the solicitation has been released contact shall be limited to the City staff member identified in the solicitation document responsible for conducting the initiative. The solicitation should provide information about how to communicate with City staff in case potential respondents require clarification. The solicitation should require all questions be submitted in writing only (via letter, fax or e-mail) to a specific person no later than a specific date and time of day. Responses may take the form of an addendum, but must do so if the response provides significant information or in some way revises the original solicitation document. Addenda must be posted to the City’s website with the solicitation. Copies of the addenda should be distributed to all potential respondents known to have a copy of the solicitation document and to all contractors with an interest in the solicitation. The same prohibition of lobbying applies after the proposals are received and until City Council consideration and execution of the contract by the external party.

In order for the City to be fair and avoid any appearance of being unfair, it is imperative improper communication with contractors during the solicitation process be avoided. The following language can be incorporated in the solicitation documents to help achieve this goal: “Respondent shall not lobby or otherwise contact City employees before an award has been made, except as set out herein. Violation of this provision by respondent or his agent may lead to disqualification of its proposal from consideration.”

This provision is not intended to prohibit other City staff from participating in a dialogue with any or all respondents to a solicitation. In fact, there are occasions when City staff (other than the staff member responsible for the contracting initiative) must engage in a discussion with a respondent. However, in all cases, requests for a dialogue with a respondent or respondents, or for the gathering of other information from solicitation respondents must be routed through the City staff member responsible for the solicitation.

This policy applies to all City officials and staff except City Council members and personnel retained under contract by City Council members. It is intended to be applied only when a competitive solicitation process is required for a discretionary contract.

Contracting Roles and Responsibilities

OVERVIEW

The purpose of this chapter is to describe the City's decentralized contracting organization and explain the roles of specific departments as they relate to citywide contracting initiatives.

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Contracting Roles & Responsibilities

The City of San Antonio has a decentralized contracting organization. That is, departments assume contracting responsibility for specific types of contracts within specific limits as defined within this manual.

The Performance Review of the Business Contract Management Process and City Attorney's Office, conducted in the Spring of 2001, reflected a recognition that there are certain inherent advantages associated with a decentralized contracting organization (subject matter expertise, less bureaucracy, quicker approvals, etc.). But, in order to promote consistency and accountability, departments and specifically designated staff must employ standard, contracting processes within prescribed boundaries and specific authority, which are described as follows:

Purchasing & General Services	Public Works	City Attorney's Office
<p>The Department of Purchasing and General Services has the sole responsibility for the procurement of goods and non-professional services costing more than \$3,000 and for certain public works projects costing less than \$50,000. Generally, the procurements conducted by the Department of Purchasing and General Services are those which are governed by Section 252 of the Texas Local Government Code.</p> <p>As with all contracts and procurements that require expenditures in excess of \$25,000, goods and non-professional services procured by the Department of Purchasing and General Services that cost over \$25,000 must be approved by City Council. However, for procurements not requiring statutory competitive bidding (procurements up to \$25,000) the Director of Purchasing and General Services, or designee, may execute contracts without City Council approval, so long as funds for those contracts are provided for in the budget and the procurement complies with applicable law.</p> <p>Chapter 4, Section 16 details the required procedures for the procurement of goods and non-professional services.</p>	<p>The Department of Public Works is responsible for all public works contracts - agreements for the construction, repair, or renovation of a structure, road, highway, or other improvement of or addition to real property - requiring expenditures in excess of \$50,000.</p> <p>Further, Professional Service contracts related to architectural and engineering services are conducted by or coordinated with the Public Works Department.</p> <p>The Capital Programs Management Division stewards capital improvement projects from inception through completion of construction.</p> <p>The Real Estate Section of this office provides support to a number of City departments, and sections including: Capital Programs, City Architects, Fire, Police, Parks and Recreation, and the Library. Specifically, this section acquires land for public use, purchases tracts of property, secures Fee Simple Title, Easements, Joint Use Agreements and numerous other title interests through negotiations whenever possible, or by eminent domain proceedings if necessary.</p>	<p>According to the Charter of the City of San Antonio, the City Attorney:</p> <p>“ . . . shall be the chief legal adviser of all offices, departments, and agencies and of all officers and employees of the City in matters relating to their official powers and duties. He shall represent the City in all legal proceedings. He shall perform all services incident to his position as may be required by statute, by this Charter or by ordinance. He shall draft all proposed ordinances granting franchises and shall pass upon all papers, documents, contracts and other instruments in which the City may be interested.”</p> <p>The City Attorney's Office (CAO) is charged with drafting and reviewing all City contracts for form, content, and legal aspects of a business transaction.</p> <p>Additionally, the CAO can help departments:</p> <ul style="list-style-type: none"> ▪ Determine the appropriate procurement method; ▪ Prepare an RFP, RFQ or Request for Interest Statement, and; • Negotiate a business transaction.

Other City Departments

Other City Departments have the authority to contract for:

- Goods and non-professional services with expenditures up to \$3,000, so long as it is provided for in the budget and complies with applicable law.
- Professional Services up to \$25,000 — with the exception of professional services related to architecture and engineering.

Departments can also utilize a petty cash account and a "procurement card" to accomplish certain purchases. Please see Chapter 4, Section 16 for instructions.

Departments may not execute contracts for:

- Insurance or High Technology procurements;
- Goods and services provided to the City through an existing City of San Antonio Annual Contract; or
- Public Works Contracts (see public work definition, page 111).
- All contracts that require an expenditure of more than \$25,000 must be approved by City Council.

Contract Services Division

The Contract Services Division of Asset Management was created in July 2001 and was charged with implementing the recommendations set forth in the "Business Performance Review of the Business Contract Management Process and City Attorney's Office" that had been previously commissioned by City Council in the spring of 2001.

The Contract Services Division of Asset Management:

- Is responsible for the development and implementation of contracting policy and process;
- Acts as the custodian for the Electronic Contract Management System (ECMS), the database that serves as the City's primary repository for contracting information;
- Provides contracting ombudsman services — providing contracting consulting services to City departments; and
- Is charged with ensuring compliance with policies and procedures detailed within this manual.

Certified Contracting Officers

Certified Contracting Officers (CCOs) are individuals responsible for conducting contracting activity for the City of San Antonio on behalf of their departments. They are tasked with ensuring all applicable state and local laws are observed when bids and proposals are solicited, evaluated, and awarded. CCOs must also be familiar with the variety of process steps used with different contract types.

To become a Certified Contracting Officer, an individual must first be nominated by his department director to the Contract Services Division of the Department of Asset Management, then attend a series of training sessions to build familiarity and confidence in the basics of contract law, negotiation, and the range of process steps associated with multiple types of contracts.

Certified Contracting Officers serve as valuable sources of information for their department's staff, as well as providing assurance to San Antonio's citizens that all contracting efforts are conducted appropriately, ethically, and in accordance with all applicable laws, guidelines, and regulations.

Competitive Solicitations

OVERVIEW

The purpose of this chapter is to define different types of competitive procurements, when they should be used, and how to properly evaluate submissions received in response to a Request for Proposals.

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“An Offer to Make Offers...”

IFBs, CSPs and RFPs are offers to make offers under basic principles of contract law. They do not bind the City to enter into a contract. However, it is wise to so state in the solicitation document to avoid confusion.

Bids vs. RFPs

Texas state law (Texas Local Government Code Chapter 252) sets forth specific guidelines regarding when a bid must be used and when a more discretionary procurement process (CSPs, RFPs, RFQs) can be employed. Contact the City Attorney's Office or the Department of Asset Management Contract Services Division when there are questions about the type of solicitation that should be used for a particular contracting or procurement initiative.

Best Value IFB

A best value bid is issued like a normal Invitation for Bid. A best value bid contains evaluation criteria, which may include price and other factors.

Best value bids are only used for procurements of goods and non-professional services over \$25,000.

Contact the Purchasing Department or the City Attorney's Office for more information about when a best value bid can be employed.

The Development of Competitive Solicitations

Invitation for Bids (IFB)

An Invitation for Bids (IFB) under Texas Local Government Code, Chapter 252 is a competitive solicitation whereby the contract may be awarded to the lowest responsible bidder or the bidder providing the best value. If awarded to the lowest responsible bidder, the contract is awarded based on price alone. If the IFB states that the contract may be awarded to the bidder providing the best value, then the contractor may be selected based upon criteria set forth in the IFB. Both are required to be advertised and opened publicly, in accordance with the requirements of that statute.

Competitive Sealed Proposals (CSP)

A Competitive Sealed Proposal (CSP) under Texas Local Government Code, Chapter 252 is a competitive solicitation whereby the contract may be awarded based upon criteria set forth in the Request for Competitive Sealed Proposals. The Request must state the relative importance of price and the other selection criteria specified. The statute sets forth advertising requirements, and the proposals are opened publicly; however, the contents, other than the names of the proposers, may be kept confidential during negotiations. Proposers may be allowed to change their proposals after the time set for the public opening, as long as all proposers are treated fairly and given the same opportunities. CSPs may only be used for the procurement of high technology and insurance, as set forth in the statute.

Request for Qualifications (RFQ)

A Request for Qualifications (RFQ) is a solicitation instrument used to gather information regarding a firm's capabilities, qualifications, and competence. RFQs are commonly used for architectural services, landscape architectural services, engineering services, and land surveying. It differs from a Request for Proposal in that an RFQ is used for certain professional services where **price cannot provide the basis for awarding a firm a contract**.

The Texas Local Government Code Chapter 2254 specifically describes services that cannot be awarded on the basis of cost. Instead of making an award on the basis of submitted pricing, a determination must first be made that a firm is the “most qualified” and only upon the conclusion of that determination should the costs of the service be discussed. Qualifications and competence can typically only be determined by an evaluation of submissions made in response to an RFQ.

The development of a Request for Qualifications tracks the RFP development process that is described in the following pages. The exception, as mentioned, is that an RFQ for certain professional services cannot have price as an evaluation factor.

For further information about when an RFQ should be used, contact the Contract Services Division of Asset Management.

Request For Proposals (RFP)

A Request for Proposals (RFP) is a competitive procurement process, which allows the City to consider factors in addition to price as a means of selecting a contractor. This type of procurement is considered discretionary since the City chooses the factors upon which to base its evaluation, and then uses its discretion in rating the proposals.

The goal of a RFP is to solicit comparable proposals from several contractors. If a RFP is unclear, contractors are unlikely to submit proposals or the proposals that are submitted may be vastly different and make evaluation difficult or impossible. Therefore, it is essential that significant thought be applied when developing a RFP.

The tone set in the development of a RFP will determine the quality of the overall process. The demands of the RFP on potential respondents, the conduct of the pre-proposal conference, the responses to requests for clarification and issuance of addenda, the evaluation and safeguarding of proposals, the presentation of award recommendations, the communication with unsuccessful respondents, and the administration of the contract directly affect the level of participation by superior contractors on future RFPs. When City departments competently and professionally conduct the RFP process, all parties tend to perform at a higher level and the entire City benefits.

The City has a number of resources available to departments planning to issue a RFP. Sample RFPs are available from the Contract Services Division of Asset Management, as well as from departments with regular experience issuing RFPs. Other cities may be contacted for samples, since they may have used RFPs to satisfy similar requirements. Checking the Internet is another means to discover current RFPs, as well as RFPs posted on the City's website. Also, the State of Texas has a very useful document available, applicable to RFPs; it may be accessed at <http://www.gsc.state.tx.us/stpurch/rfptoc.html>.

The City Attorney's Office, the Contract Services Division of Asset Management, the Risk Management Division of the Office of Management and Budget, and the Small Business Economic Development Advocacy Office of the Economic Development Department should be contacted for advice and assistance early in the process of developing all RFPs, and each of these offices should be asked to review the RFP before it is solicited.

RFP Components:

Project Overview

An RFP should begin with a section describing the reason it is being issued. This section may be titled Overview, Project Overview, Introduction, Background, Needs Assessment, or Summary. Any title or combination of titles is appropriate as long as the information it precedes provides the history of the project, the purpose of the project, what the completed project will be, and, if time is critical, when the work must be completed. This section does not need to be lengthy, but it does need to include enough information for contractors to decide whether this is a project in which they may have an interest.

What is an RFP?

A Request for Proposal (RFP) is a competitive solicitation whereby a contract may be awarded based upon the criteria set forth in the RFP.

When to Use an RFP?

RFPs are commonly used for soliciting professional services, consulting, and many revenue contracts.

30 Day Solicitation Waiver

Generally, an RFP is advertised for 30 days. A waiver can be granted by the Economic Development Dept. to accommodate special circumstances. Contact the Economic Development Dept. for more information. For more information on advertising RFPs see page 27.

Policy Directive

Departments must maintain consistent evaluation criteria among RFPs for similar requirements. See Appendix C for example.

Alternate criteria must be approved by Contract Services Division prior to advertising the solicitation.

Policy Directive

All Requests for Proposals (RFPs) and Requests for Qualifications (RFQs)– except those for architectural and engineering services – must be directed to the Asset Management Department/ Contract Services Division for review and approval prior to solicitation.

Architectural and engineering (A&E) solicitations that are developed outside of the standard RFQ template, or those A&E solicitations expected to exceed \$250,000 must also be directed to the Asset Management Department/Contract Services Division for review and approval prior to solicitation.

Chapter 3- Section 1

Scope of Services

The Scope of Services, Statement of Objective, or Scope of Work defines what the City requires to be accomplished – where and when the work will occur and the extent of the work. RFPs should be detailed and include all requirements the City will expect of the successful contractor. However, departments must be careful and remember it is the contractor who must propose how the work will be accomplished and the objectives achieved.

For example, a requirement for services may state, “Respondent must have a local office within 20 miles of City Hall.” Although this is a measurable requirement, it does not guarantee a quick response. A preferred requirement would state, “Respondent must provide evidence of ability to deliver service to City Hall within two hours of initial call for service.”

Submittal Instructions

All RFPs must include instructions about how to submit proposals. This should include where and when to deliver proposals, including any special instructions for marking the outside of the box or envelope, the required number of copies, the required format of the proposal, and identification of any necessary documents and/or completed forms. Departments should consider setting a maximum number of pages that proposals may contain as this limits extraneous information being submitted, encourages contractors to focus on the City's requirements, and promotes the ease of evaluation. Similarly, this section should state whether computer diskettes and/or compact disks will be reviewed and considered; they generally are not reviewed and considered if the proposal has page limits.

Prohibited Lobbying of City Staff

There are three “communication” phases of a contracting initiative include: a) the period prior to issuance of the RFP; b) the period during the solicitation; c) the period after the responses have been received and evaluated, but prior to Council approval. Prior to issuance of the RFP,

opencommunication between potential respondents and City staff is permissible. However, once the RFP has been released contact is limited to the City staff member identified in the RFP responsible for the conduct of the initiative. The RFP should provide information about how to communicate with the City in case potential respondents require clarification. The RFP should require questions be submitted in writing (via letter, fax, or e-mail) to a specific person no later than a specific date and time of day. Responses may take the form of an addendum to the RFP, but must do so if the response provides significant information or in some way revised the original RFP. Addenda must be posted to the City's website with the RFP. Copies of the addenda should be distributed to all potential respondents known to have a copy of the RFP and to all contractors with an interest in the RFP. The same prohibition of lobbying should also apply after the proposals are received until City Council consideration and execution of the contract by the external party.

In order for the City to be fair and avoid any appearance of being unfair, it is imperative improper communication with contractors during the solicitation process be avoided. The following language can be incorporated in the solicitation documents to help achieve this goal: “Respondent shall not lobby or otherwise contact City employees before an award has been made, except as set out herein. Violation of this provision by respondent or his agent may lead to disqualification of its proposal from consideration.”

This provision is not intended to prohibit other City staff from participating in a dialogue with any or all respondents to a solicitation. In fact, there are occasions when City staff (other than the staff member responsible for the contracting initiative) must engage in a discussion with a respondent. However, in all cases, requests for a dialogue with a respondent or respondents, or for the gathering of other information from solicitation respondents must be routed through the City staff member responsible for the solicitation.

This policy applies to all City officials and staff except City Council members and personnel retained under contract by City Council members. It is intended to be applied only when a competitive solicitation process is required for a discretionary contract.

Terms and Conditions

This section, or sections, includes insurance, indemnification, and bond requirements, if any. “Boilerplate language” may be incorporated here, along with information about award of the contract and reservation of the City's rights. It is necessary for contractors to be aware of all terms and conditions that are non-negotiable. If possible, a sample contract should be included. The City Attorney's Office can be very helpful in supplying valuable language for RFPs and all departments should utilize their services.

Pre-Proposal Conference

If a Pre-Proposal Conference is planned, the RFP should identify when and where it will be held. Pre-Proposal Conferences should be conducted a minimum of 10 to 15 calendar days after the RFP is advertised and/or distributed and a minimum of 15 calendar days prior to the proposal due date. If attendance is mandatory, this should be clearly stated; however, it should be recognized that requiring attendance at a Pre-Proposal Conference can have the effect of reducing the number of proposals submitted and possibly disqualifying a high quality proposal. The purpose of a Pre-Proposal Conference is only to clarify the RFP and not to facilitate arguments from contractors regarding the City's requirements. If valid suggestions or objections are received, they should be seriously considered by the City department following the conference and, if modification of the RFP is necessary, an addendum should be issued promptly.

Price

Each RFP needs to detail how pricing information must be submitted and how it will be considered during the evaluation of proposals. Including a form for prices as part of the RFP and requiring contractors to complete the form and submit it as part of their

proposal will ensure that contractors provide pricing information uniformly. This will simplify price comparisons. A pricing form, sometimes called a “price schedule,” can be simple or complex, but not including one as part of an RFP can create unnecessary, time-consuming challenges during proposal evaluations.

Evaluation Criteria

RFPs must identify the evaluation criteria to be used in the review process. Proposals can only be evaluated using the criteria in the RFP.

Stating the evaluation criteria in the RFP and then following the criteria during the evaluation process makes the selection process easy to defend.

Evaluation criteria provide the basis for identifying a proposal which best meets the City’s needs; therefore, it is essential that key factors be included for consideration. The most effective evaluation criteria are those which are objective (not subject to interpretation), measurable, fair, reasonable, and relate directly to the requirement being supported. It is also important to avoid including evaluation criteria which may be difficult to measure.

Weights are assigned to each evaluation criteria (or “factor”), based on their relative importance. Assigning weights on a 100 point scale is the preferred method for City of San Antonio RFPs.

The following example of evaluation criteria and their respective weights is from an RFP for a professional service contract to conduct training classes:

EVALUATION CRITERIA	WEIGHT OF CRITERIA
Background, Experience, References	35%
Proposed Training Program	25%
Price	20%
Compliance with SBEDA Reqs./Goals	20%

RFPs may include more evaluation criteria than the above example, however, departments should strive to maintain consistent evaluation criteria among RFPs for similar work. Additional evaluation criterion may include Understanding of and Responsiveness to RFP, Technical Proposal, Appropriateness of Methodology, Adequacy of Work Plan, Capability/Capacity, Management Plan, Responsibility, and Financial Stability, among others.

City ordinances require that Small Business Economic Development Advocacy (SBEDA) requirements be included with a weight of 20% for all professional service and discretionary contract RFPs above \$25,000.00. Since this requirement is subject to revision by City Council, it is recommended that all draft RFPs be provided to the Economic Development Department for review prior to solicitation.

Required Forms in RFPs and RFQs

In addition to the components discussed on the previous pages, discretionary, competitive solicitations must also include the following forms as attachments to the RFP/Q document:

- General Questionnaire
- Litigation Disclosure
- Discretionary Contracts Ethics Disclosure
- Small Business Economic Development Advocacy Program
 - List of Subcontractors (Contracts Valued over \$25,000 up to \$200,000)
 - Good Faith Effort Plan (Contracts Valued over \$200,000)

These forms as well as other optional forms are included in the [Professional Services RFP](#) template.

How to Advertise an RFP or RFQ:

- Prepare a memo from your Department to the City Clerk requesting legal notice publication in minority-targeted media;
- The memo needs to include the date you wish the notice to appear, the index code to be charged for publication costs, and a request for the City Clerk’s Office to obtain certification of the published notice;
- Attach to the memo the “ad copy” you wish to have published. The typical ad copy contains a brief description of the project, the RFP/Q availability date and location, and the closing date of the solicitation (see Appendix A for a sample memo and ad copy);
- The memo and ad copy should be e-mailed to the Senior Account Clerk in charge of advertising notices at the City Clerk’s Office; s/ he will coordinate publication of the RFP/Q with appropriate media sources;
- Send a second e-mail to the City Webmaster at ITSD containing the information above and attach a digital copy of your RFP/Q document and any exhibits, tables, etc., requesting the document be posted on the City’s RFP/Q web page: <http://www.sanantonio.gov/rfp/> or <http://www.sanantonio.gov/caprog/rep/rfqrep.asp>

The RFP/RFQ Evaluation Process – Theoretical Underpinnings

The process of evaluating responses to a Request for Proposals is inherently subjective. Without the application of objective data and quantitative rigor, the process becomes fraught with bias.

The goal of this section of the manual is to provide a methodology that can be employed when evaluating responses to a Request for Proposal or a Request for Qualifications.

Every RFP should alert prospective respondents as to how the evaluation process will work and what criteria will be used for evaluation. However, just listing the criteria is not enough. Each criterion must be assigned a weight, that is, a score that reflects a particular criterion's relative importance in relationship to other criteria. This chapter details how that assignment should be accomplished.

Please note that for some services (services related to architecture, landscape architecture, land surveying, engineering, and other specific professional services) an evaluation CANNOT be made on the basis of price. Please read this chapter for more details and/or contact the staff of the Department of Asset Management Contract Services Division or City Attorney's Office.

Evaluating Proposals

In order to conduct effective proposal evaluations, the following three factors are necessary: a clearly written Request for Proposal (RFP), fair evaluation criteria, and a knowledgeable Evaluation Team.

Before the evaluation of proposals begins, the Evaluation Team should meet to discuss the scoring process and understand how to score proposals. Each member of the Evaluation Team should be provided a copy of the RFP, a copy of all RFPs received, and evaluation worksheets that list evaluation criteria and the maximum number of points available for each criterion. Evaluation worksheets that identify mandatory requirements are also useful in that they help to streamline the review of proposals.

The first step in evaluating proposals is determining compliance with mandatory requirements. Mandatory requirements appear in the RFP with the words "must" or "shall." For example, "Respondent must provide evidence of capability to provide on-site repair support within two hours of initial request" or "Respondent shall provide a warranty of no less than 24 months for all equipment to be provided as part of the proposed contract." Proposals that fail to meet mandatory requirements do not merit substantial review time by Evaluation Team members.

After checking mandatory requirements, team members should assign points to each criterion based on a thorough review of the proposal. Members should complete an evaluation worksheet for each proposal with a list of specific strengths and weaknesses, referenced by page number, in order to justify their point totals.

Each evaluation team member should be able to justify his/her assigned scores - either to other team members, Management Team members, the San Antonio City Council.

Assigning points for price can be done several ways, but the method should be decided before proposal evaluations begin. Usually, the lowest priced proposal receives the maximum number of points and the other proposals receive a percentage of the maximum number of points based on a comparison with the lowest priced proposal. See example below.

<u>Proposal</u>	<u>Price</u>	<u>Calculation*</u>	<u>Points</u>
A	\$75,000	$(25,000/75,000) \times 20$	6.67
B	\$25,000	$(25,000/25,000) \times 20$	20
C	\$50,000	$(25,000/50,000) \times 20$	10

**Maximum possible number of points is 20.*

When the Evaluation Team meets to discuss the proposals, individual team members shall have completed evaluation worksheets for every proposal and be familiar with the contents of all proposals. The Team should discuss the evaluation criteria and the responses to ensure each team member has fully considered and understands the proposals. Based upon this discussion, individual scores may be adjusted and evaluation worksheets modified to reflect any revisions.

The Certified Contracting Officer (CCO) shall utilize team members' individual scores to assign a score for each evaluation criteria. This "individual scoring" method shall be used in all proposal evaluations with the following exception.

EXCEPTION TO INDIVIDUAL SCORING. When some team members have limited subject matter expertise, a "consensus scoring" method may be appropriate. For example, if financial integrity were an evaluation criteria and not all team members were skilled in interpreting financial statements, balance sheets, income statements, or annual reports, the CCO may rely on one or more members to evaluate the criteria and recommend a score with the consensus of the team. For initiatives identified as high risk within ECMS, only a Management Team member may authorize the use of "consensus scoring." For all other initiatives, the Contract Services Division of the Dept. of Asset Management may authorize "consensus scoring."

After the Evaluation Team has assigned points for each proposal's evaluation criteria, the SBEDA points (local and disadvantaged business enterprise performance and SBEDA policy compliance) as scored by the Small Business Development Advocacy Office of the Economic Development Department should be disclosed. By utilizing this process sequence, Evaluation Teams ensure objectivity throughout the review and assignment of points.

At this point in the process, the Evaluation Team should decide if one proposal is clearly superior, if it satisfies the City's needs, and if the proposal adequately addresses members' concerns. If so, the CCO may advise the department director and request authority to proceed to negotiate with the highest rated respondent to finalize the contract.

However, if the Evaluation Team wishes to interview one or more respondents, and/or request a presentation from one or more respondents, the CCO may arrange it. Establishing a time limit on interviews and presentations by respondents can be helpful in that the introduction of extraneous information is minimized. Following interviews/presentations, the Evaluation Team makes a final rating to identify a firm for a contract award recommendation which is subject to City Council approval.

The CCO should prepare a Proposal Evaluation Summary ([SAMPLE](#)) or scoring matrix to summarize the evaluation team's ratings and include the scoring matrix as an attachment to the award recommendation. A copy of the scoring matrix must be included in the contract file.

Evaluation Sequence and SBEDA Scoring

It is important to disclose scores for SBEDA criteria last. By doing this, Evaluation Teams ensure objectivity throughout the review and assignment of points.

When Serving as an Evaluation Team Member:

- Sign Code of Conduct Statement
- Attend all meetings;
- Review proposals thoroughly;
- Respect confidentiality of submitting proposer;
- Abide by City Ethics Code and Code of Conduct Statement; and
- Approach each evaluation without bias.

Policy Directive

The composition of the evaluation team on all **high risk** contracting initiatives (those initiatives that have at least one "high risk" criterion on the ECMS risk evaluation tool) must be approved by the department's Management Team Member. The four high risk criteria are: dollar amount, solicitation method, community interest, and contract complexity.

Policy Directive

Each Evaluation Team member will be required to sign a Code of Conduct Statement ([SAMPLE](#)) prior to reviewing proposals. It is the responsibility of the CCO to ensure that each Evaluation Team member understands the contents of the Code of Conduct Statement and has been briefed regarding their responsibilities related to conflict of interest and non-disclosure of information obtained during the reviews. The CCO shall file the signed Code of Conduct Statements with the contract file.

Policy Directive

The composition of the evaluation team on all high risk contracting initiatives (those initiatives that have at least one “high risk” criterion on the ECMS risk evaluation tool) must be approved by the department’s Management Team Member. The four high risk criteria are: dollar amount, solicitation method, community interest, and contract complexity.

Policy Directive

All Requests for Proposals (RFP’s) and Requests for Qualifications (RFQ’s) – except those for architectural and engineering services – must be directed to the Asset Management Department/Contract Services Division for review and approval prior to solicitation.

Evaluation Team

A CCO should serve as the leader of an Evaluation Team. In cases when a department has a more experienced individual to lead an Evaluation Team, the CCO may function instead as a facilitator. Whatever his function, a CCO should participate in all phases of a proposal evaluation to ensure compliance with all City policies and procedures.

RFP Evaluation Teams should be composed of subject matter experts, who are willing and able to dedicate the time necessary to conduct a thorough review of proposals. It is useful to have an uneven number of persons on an Evaluation Team in case issues need to be resolved by voting. All members of an Evaluation Team should be advised of the seriousness of evaluating proposals and reminded of their responsibility to conduct themselves in accordance with the Ethics Code of the City of San Antonio. **Each Evaluation Team member will be required to sign a Code of Conduct Statement prior to reviewing proposals.**

Selection of Evaluation Team members should be completed as early as possible. Ideally, team members are selected early enough to participate in drafting the RFP. Doing so leads to a greater understanding of the requirement on the part of Evaluation Team members, as well as an enhanced commitment to the entire process.

It is the policy of the City of San Antonio that the Management Team member for the initiating department must approve the composition of all Evaluation Teams when the acquisition is determined to be high risk. High risk acquisitions are those which can answer “yes” to any of the following questions:

1. Will the value of this good or service exceed \$1,000,000.00?
2. If greater than \$25,000, will an agreement be pursued without a competitive solicitation by the City (with exception of leases, licenses, tax phase-ins, foreign trade zones, and franchise agreements)?
3. Will the good or service be of a highly complex or technical nature, OR will the contract terms/conditions be non-standard and/or complex (consider scope of services, term of contract, regulatory requirements, sources of funding, basis of payment, etc.)?
4. Will there be a high level of community interest or other exceptional interest in this agreement?

The above risk assessment questions appear when anticipated contracts are entered into the Electronic Contract Management System (ECMS).

Responsibilities of Evaluation Team members include:

- Attend all Evaluation Team meetings
- Complete Code of Conduct Statement ([SAMPLE](#))
- Upon receipt of proposals, Evaluation Team members should:
 - Review each proposal thoroughly;
 - Determine if all mandatory requirements have been satisfied;
 - Identify strengths and weaknesses in each proposal;
 - Document strengths and weaknesses (by page number);
 - Identify areas of proposal requiring clarification;
 - Identify contradictory information within document (by page number);
 - Complete evaluation worksheet for each proposal reviewed;
 - Meet as scheduled to discuss proposal evaluations; and
 - Attend interviews/presentations by respondents, if scheduled.

Responsibilities of the Certified Contracting Officer:

- Invite individuals to serve on RFP Evaluation Team;
- Select an uneven number of members (in case voting is required to resolve differences);
- Convene a meeting of Evaluation Team members in order to:
 - Describe the procurement;
 - Describe the members' responsibilities;
 - Review evaluation criteria and scoring method;
 - Describe security procedures during evaluation process;
 - Outline schedule and agree on meeting dates;
 - Obtain signatures on Code of Conduct Statement ([SAMPLE](#)).
- Upon receipt of proposals, Contracting Officer should:
 - Distribute proposals;
 - Provide evaluation worksheets ([SAMPLE](#));
 - Advise Evaluation Team of date/time/location of meeting(s);
 - Contact references, previous customers, and other sources;
 - Chair Evaluation Team meeting(s) to discuss proposals;
 - Invite respondents for interviews/presentations regarding proposal, if necessary;
 - Ensure a fair, thorough review of proposals is conducted;
 - Negotiate specific terms of contract with highest rated respondent, if necessary;
 - Prepare a summary ([SAMPLE](#)) of the Evaluation Team's proposal ratings.

Can Additional Information Be Requested from the Respondents After the Proposals Have Been Reviewed?

Requests for Proposals (RFPs) are designed to provide Departments with a certain amount of flexibility in order to allow contracting/procurement staff to obtain products and services that serve the City's best interests. Occasionally, a competitive solicitation may result in receiving responses that do not specifically address the City's scope of services listed in the RFP. This can happen when the scope contains ambiguous language, or when the originating department is unaware of significant trade changes in a particular industry. In addition, due to information received from a number of responses, the City may request a particular respondent and/or all respondent to modify his/her proposal in order to obtain an improved business transaction.

Conversely, respondents may overlook or misinterpret well-defined scope language and submit responses that, while otherwise responsive and comprehensive, do not speak appropriately to the City's procurement needs. Only the CCO may request clarification from respondents, which should be performed as soon as the need for additional information or modification has been discovered, and preferably prior to the Evaluation Team's first meeting.

To properly document the entire RFP process, the CCO should observe the following in requesting clarification of information from respondents:

- Put the request for clarification in writing and document the procurement file with the date and time sent and to whom it was addressed;
 - Include a deadline for the respondent to provide the requested information
 - Request that any price sheets be modified to comply with the City's request
- Once the clarified and/or modified information is received from the respondent(s), place a copy of the information in each Evaluation Team member's proposal packet and explain the changes thoroughly at the first evaluation meeting.

Solicitation Irregularities

Solicitation responses are considered irregular, if for example, they show omissions, unauthorized alterations to the form, additions not called for, conditional or unauthorized alternate bids, incomplete units prices, or other irregularities of any kind.

The following table contains the most common type of irregularities encountered in the solicitation process and available remedies. If in doubt of how to handle a particular solicitation irregularity, contact the Contract Services Division of Asset Management and the City Attorney's Office for assistance.

Deviations from the recommended procedural action must be approved by the Management Team.

Solicitation Irregularity	Guidelines for Resolution	RFP	RFQ	BID	CSP
Bidder/Respondent submits bid/proposal after time specified.	Do not accept or open bid/proposal.	X	X	X	X
Bidder/Respondent does not sign bid/proposal.	Bid/proposal is declared non-responsive and rejected	X	X	X	X
Bidder/Respondent does not provide a bid/proposal bond with submission in accordance with the requirements of the bid/solicitation.	Bid/proposal is declared non-responsive and rejected	X	X	X	X
Bidder/Respondent does not submit SBEDA forms (Good Faith Effort Plan or List of Subcontractors/Suppliers) with bid/proposal.	Bid/proposal is declared non-responsive and rejected	X	X	X	X
Bidder alters or changes Terms and Conditions contained in the Invitation for Bid.	Bid/proposal is declared non-responsive and rejected	N/A	N/A	X	N/A
Bidder/Respondent does not submit requested documents with bid/proposal (literature, catalogs, etc). These documents are needed to clarify or to evaluate the bid/proposal but do not modify the submittal.	Accept bid/proposal and allow bidder/respondent a reasonable amount of time to provide required information, unless the solicitation document provides otherwise.	X	X	X	X
Bidder/Respondent does not acknowledge addendum(s).	Accept bid/proposal. Allow bidder/respondent to verify acknowledgement of the addendum. If in the case of bids, if addendum contains pricing, bidder will not be considered for those item(s).	X	X	X	X
Bidder/Respondent does not submit entire bid/proposal document. Bidder/Respondent submits only Price Schedule, signature page and other documents specifically required by the solicitation document.	Accept bid/proposal. Signature page of solicitation document must state that bidder/respondent is accepting all of the terms and conditions contained in the City's solicitation.	X	X	X	X
Bidder/Respondent does not submit required number of bids/proposals as specified in the solicitation document.	Accept bid/proposal.	X	X	X	X
Bidder/Respondent does not submit Discretionary Contracts Disclosure Form as required by the solicitation document.	Accept bid/proposal. Signed copy must be received prior to City Council consideration. This form does not apply to "low bid" procurements.	X	X	X	X
Bidder/Respondent does not submit Litigation Disclosure Form as required by the solicitation document.	Accept bid/proposal. Completed copy must be received prior to City Council consideration. This form does not apply to "low bid" procurements.	X	X	X	X
Bidder offers alternate packaging.	Accept bid at City's discretion if alternate packaging is acceptable to the City and is allowed in the Invitation for Bids.	N/A	N/A	X	N/A
Bidder offers alternate unit of measure.	Accept bid at the City's discretion if an alternate unit of measure is acceptable to the City and is allowed in the Invitation for Bids. Extension will be tabulated to reflect the adjusted total.	N/A	N/A	X	N/A
Bidder does not state packaging.	Accept bid with clarification from the bidder that packaging offered is as specified. No alternates in packaging are acceptable if left blank.	N/A	N/A	X	N/A
Bidder does not state brand and model being offered.	Accept bid with clarification from the bidder that brand and model being offered are as specified. No alternates are acceptable if left blank.	N/A	N/A	X	N/A
Bidder does not provide delivery date.	Accept bid and allow bidder a reasonable amount of time to clarify delivery commitment.	N/A	N/A	X	N/A
Bid contains error in unit price or unit price extension.	Changes cannot be made to the unit price. Unit price prevails. Extended price may be adjusted to correct errors.	N/A	N/A	X	N/A
Bidder leaves Unit Price blank on an "All or None" bid.	Any blank Unit Prices will be tabulated and evaluated as "no cost" to the City.	N/A	N/A	X	N/A

OVERVIEW

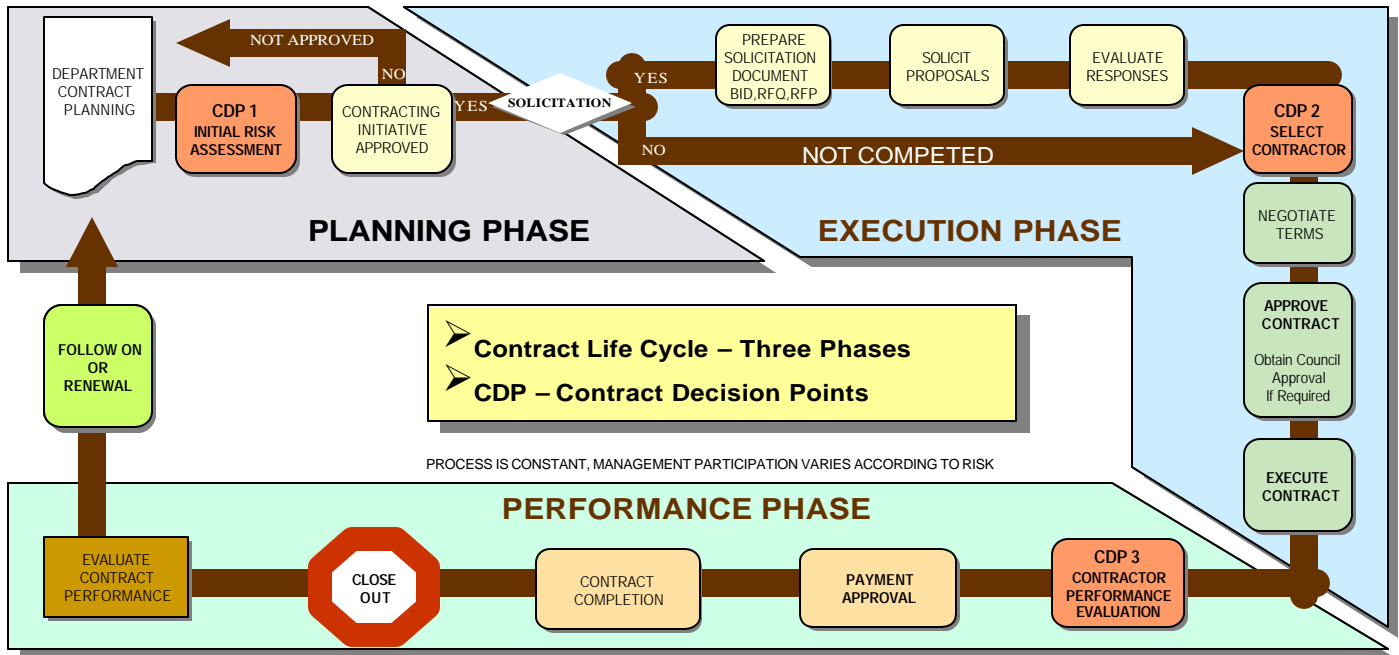
The purpose of this chapter is to document the process steps taken to initiate and monitor various types of municipal contracts.

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Contracting Processes

City of San Antonio CONTRACTING PROCESS



CDP 1 – INITIAL RISK ASSESSMENT, DETERMINES LEVEL OF STAFF REVIEW AND MANAGEMENT PARTICIPATION
 CDP 2 – CONTRACTOR/VENDOR "ASSESSMENT" PRIOR TO AWARD
 CDP 3 – PERFORMANCE EVALUATION PRIOR TO PAYMENT

Generally, all contracting or procurement initiatives conducted at the City will follow the flowchart shown above. This process can accommodate the simplest procurement to the most complex contracting initiative.

Every contracting or procurement process should consist of three distinct phases - a Planning Phase, an Execution Phase, and a Performance Phase.

During the Planning Phase, the purpose or concept of the contracting or procurement initiative should be fully and comprehensively developed. It is important that adequate time be spent identifying, at minimum:

- the funding source;
- the need and justification for the contract;
- the unique circumstances likely to affect the contract;
- previous or similar contractual arrangements;
- problems associated with contract start-up;
- estimated value of the contract;
- the term of the contract;
- transition strategies (if applicable);
- a comprehensive and detailed scope of services;
- the inherent business and liability risks that may be associated with the contract.

The Execution Phase is characterized by the solicitation process, subsequent negotiations with a selected vendor or contractor, the drafting of a contract, and the approval process leading to contract execution by a department head or through the Council Ordinance process.

Finally, the Performance Phase is characterized by all those events that occur post-execution, that is, after the contract is signed. The key to a successful performance phase is the verification and documentation of contractor performance. This manual suggests that one individual City staff member, designated a Quality Assurance Evaluator, be assigned to each and every contract. It is the responsibility of this individual to ensure that all contract deliverables are provided in accordance with contractual terms and conditions prior to any payment to the contractor or vendor. (See Chapter 4, Section 19 "Contract Administration & Monitoring")

Conceptually, during each phase of the contracting or procurement process, there are three critical junctures, which will be alluded to as Contract Decision Points.

Contract Decision Point 1 is generally made at the conclusion of the planning phase, and prior to a solicitation or negotiation effort. This is where a final

validation of the contracting purpose is approved, a final dollar value is estimated, and a risk assessment is conducted.

Contract Decision Point 2 is made during the Execution Phase at the point of contractor or vendor selection. It is at this juncture where an evaluation of a contractor's previous performance history with the City is evaluated, an assessment of the contractor's financial viability is made, and a determination is made regarding any pending litigation a selected contractor may have with the City.

Finally, Contract Decision Point 3 is made during the Performance Phase prior to payment for a product or service. It is at this time that a contractor's performance is assessed. Payment cannot be made until there are documented assurances that all contractual terms and conditions have been met.

The user of this document should incorporate these critical junctures into each contracting process described within this manual.

Overview and Assessment Of Contractual Risk

One of the most important observations noted in the "Performance Review of the Business Contract Management Process and City Attorney's Office," presented to the San Antonio City Council in May 2001, was the inability of management to distinguish contracting initiatives by level of risk and complexity. To address this issue, a risk assessment tool was added to the Electronic Contract Management System (ECMS) presenting departmental contracting personnel with four questions each time an "Anticipated" contract is entered into the ECMS. Completion of the four-question "Risk Assessment" is required for submission of the anticipated contract record. The four "yes" or "no" questions are related to:

- Contract Value (over the life of the contract, will the contract exceed \$1,000,000?)
- Procurement Method (if the contract value exceeds \$25,000, will agreement be obtained without competitive solicitation?)
- Complexity of the Service Procured or Contract Terms (is the service/good of highly complex nature, or will the contract terms be non-standard?)
- Community Interest (will there be a high level of community or other exceptional interest in this agreement?)

The purpose of this assessment tool is to minimize the risk of all contracting initiatives, through the promotion of appropriate review and a greater degree of analysis. A particular contracting process will not change according to an assessed risk level. What will change, however, is the level and degree of review the anticipated contract receives before it is scheduled for City Council action.

Each question should be considered carefully before answering "yes" or "no"; while "no" (low risk factor) answers can be later changed to "yes" (high risk factor) by originating department staff, "yes" answers cannot be changed to "no" without approval and assistance from the Department of Asset Management, Contract Services Division. Originating department staff should consult its internal approval processes before entering an anticipated contract record into ECMS to ensure that all known risk elements will be accounted for in the Risk Assessment interface. Below is an example of the Risk Assessment that was generated when an anticipated contract for engineering services was entered into ECMS. The originating department intends to issue a Request for Qualifications (RFQ) to procure the needed engineering services. All four questions received a "no" response, assessing the anticipated contract as a "low" risk.

After the originating department drafted the RFQ to procure engineering services to redesign the existing climate control system in a City-owned facility, the entire climate control system failed. The facility serves as a nutrition site for many elderly residents and daytime temperatures average 96°F. Due to these public health and safety concerns, the department decided that it was in the City's best interest to forego a formal solicitation and make an immediate selection of an engineering firm, that specialized in climate control systems.

The appropriate change of the answer to question two of the Risk Assessment from "no" to "yes" is shown here. The change is justified with the remarks entered by the originating department staff.

**CITY OF SAN ANTONIO
CONTRACT MANAGEMENT SYSTEM
Risk Assessment**

Will the value of this good or service exceed \$1,000,000.00?
(Subcontract and subcontractor contracts apply.)
Remarks: ☐ Yes ☒ No

If greater than \$25,000, will an agreement be procured without a competitive solicitation in the City?
Remarks: The engineering service required in response to health and safety issues in City-owned facility. ☒ Yes ☐ No

Will the good or service be of a highly complex or technical nature. Or, will the contract terms/conditions be non-standard and/or complex (consider scope of service, term of contract, regulatory requirements, source of funding, terms of payment, etc.)?
Remarks: ☐ Yes ☒ No

Will there be a high level of community interest or other exceptional interest in this agreement?
Remarks: ☐ Yes ☒ No

*This question does not apply to leases, licenses, fee simple, design trade names and franchise agreements.

Submit Cancel

**CITY OF SAN ANTONIO
CONTRACT MANAGEMENT SYSTEM
Risk Assessment**

Will the value of this good or service exceed \$1,000,000.00?
(NOTE: PURCHASE AGREEMENTS APPLY)
Remarks:

If greater than \$25,000, will an agreement be pursued without a competitive selection by the City?
Remarks:

Will the good or service be of a highly complex or technical nature, or will the contract terms/conditions be non-standard and/or complex/consider scope of services, term of contract, regulatory requirements, source of funding, basis of payment, etc.?
Remarks:

Will there be a high level of community interest or other exceptional interest in this agreement?
Remarks:

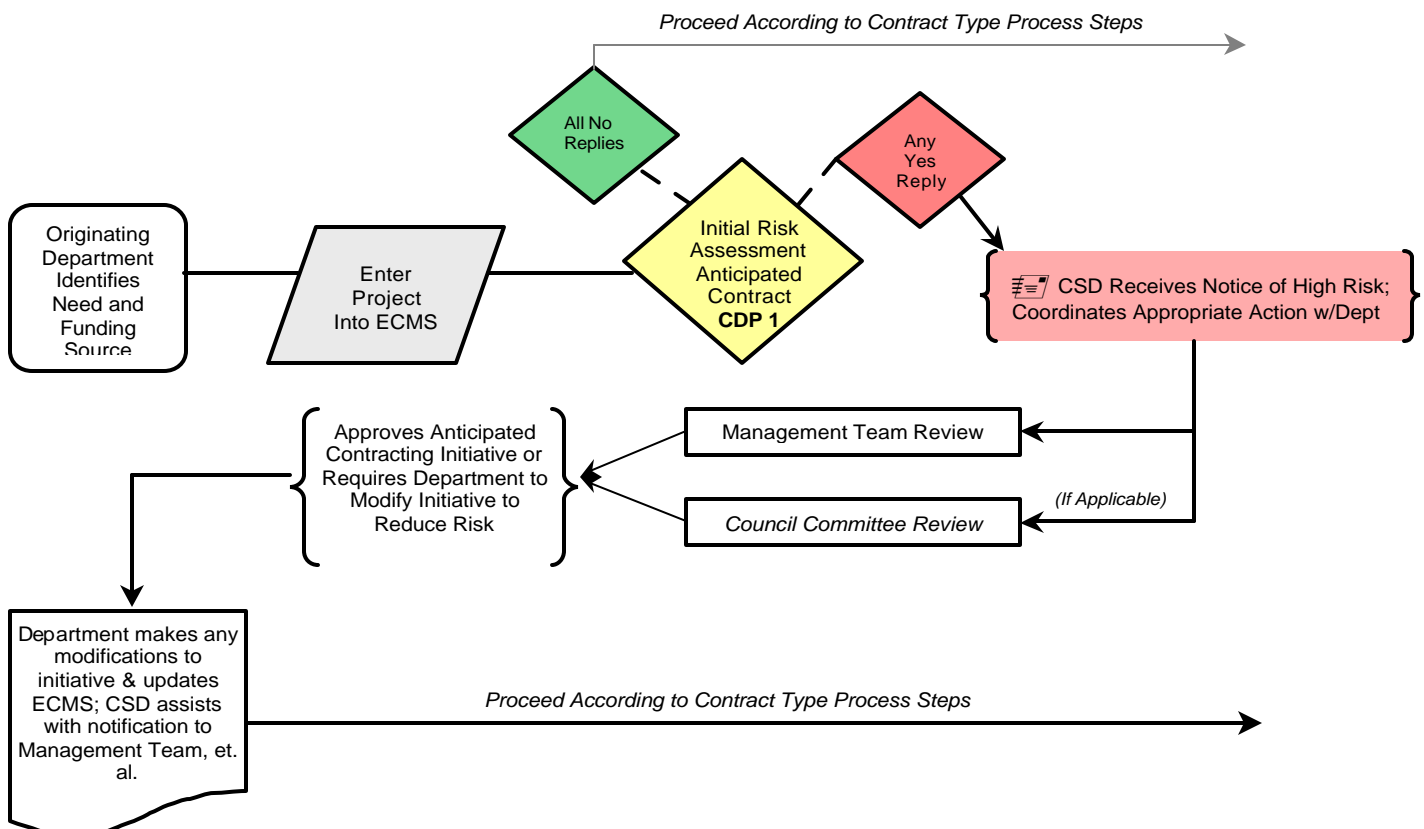
*This question does not apply to leases, licenses, franchise fees, foreign trade zones, and franchise agreements.

When any one of the four questions receives an answer of “yes”, ECMS generates an e-mail notification to the Department of Asset Management, Contract Services Division (CSD) and to the originating department's director or designee, reflecting the information contained in the Risk Assessment. This ensures that appropriate staff members are aware of pending contracting initiatives containing a certain level of risk or exposure to the City, that may require a higher degree of review before being scheduled for City Council consideration.

This higher degree of review begins with CSD staff contacting the originating department to gather more information on the contracting initiative and the proposed contractor, if appropriate.

CSD, working with the originating department, may recommend the item receive Management Team Review and/or City Council Committee review. While not every anticipated contract containing risk elements will require this level of review, the process defined above provides Management with a reporting tool that distinguishes contracting initiatives by level of risk and complexity.

Below is a graphic representation of the heightened review process. In the case of the engineering services example provided above, once CSD confirmed that the change to the Risk Assessment, regarding procurement method, was due to public health and safety concerns, no additional review was recommended. However, CSD did ensure that the department included this information in the City Council briefing memo submitted for City Council action.



DEFINITION

A professional services agreement in which the City hires an architect or architectural firm to perform a service requiring the practice of designing structures or landscapes.

Architectural Service Contracts

All architectural service contracts must use a “two-step” procurement process of first determining the most competent and qualified firm, and then negotiating a fair and reasonable price.

The following steps apply to architectural service contracts greater than \$25,000.

Architectural Service Contracts less than \$25,000, may also utilize the following steps. However, City Council approval, application of SBEDA scoring criteria, and advertising the requirement are not mandatory, if the contract is less than \$25,000 and is not bond funded. Alternate methods of soliciting a firm's qualifications prior to selection and price negotiation include contact by telephone, e-mail, fax, or mail.

Responsible Party

A. Originating Department

Development Step

- Step 1 Identify need to secure architectural services. Submit Request for Service Form (SAMPLE) to City Architect's Office/Public Works Dept.
- Step 2 Meet with City Architect's Office/Public Works Dept. to develop program and cost estimate of project.
- Step 3 Obtain funding for project through budgeting process.
- Step 4 Enter the information pertaining to the agreement into the Electronic Contract Management System (ECMS) as an *Anticipated* revenue contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as “high risk,” the director of the originating department and the Contract Services Division of the Dept. of Asset Management are notified that the project shall be candidate for additional review by all coordinating departments and if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the [ECMS Operation Manual](#).
- Step 5 Develop project description, scope of services, and time schedule in conjunction with City Architect's Office.
- Step 6 Submit memo [SAMPLE](#) to Capital Programs Division/Public Works Department requesting issuance of Request for Qualifications (RFQ). This step should occur in the fiscal year the funds have been allocated.

B. Capital Programs Division/ Public Works Dept.

- Step 1 Develop RFQ.
- Step 2 Post RFQ on City's website and send e-mail notification to architects/engineers advising them of RFQ.
- Step 3 Receive responses to RFQ and review for completeness.
- Step 4 Forward all complete responses to RFQ to City Architect's Office.

C. City Architect's Office/ Public Works Dept.

- Step 1 Distribute rating forms and responses to RFQ to designated Evaluation Team members.
- Step 2 Establish schedule for review of responses to RFQ, and notify Evaluation Team members of due date for rating forms.
- Step 3 Collect completed rating forms and prepare overall ratings.
- Step 4 Conduct interviews with highest rated firms, if necessary.
- Step 5 Send memo with ratings to Capital Programs Division, requesting meeting with Public Works Director's Architectural and Engineering (A & E) Committee for selection of firm.

D. Capital Programs Division/ Public Works Dept.

- Step 1 Facilitate A & E Committee meeting to select architecture firm.
- Step 2 Notify selected architecture firm to contact City Architect's Office to negotiate contract.

E. City Architect's Office/ Public Works Dept.

Negotiate scope of services, fee, and schedule with architecture firm.

F. Capital Programs Division/ Public Works Dept.

Draft standard contract. Any deviations from standard contract developed by City Attorney's Office requires City Attorney's Office approval.

G. City Architect's Office/ Public Works Dept.

Review draft contract. Recommend revisions or approve contract as written.

H. Capital Programs Division/ Public Works Dept.

Obtain signatures on two original contracts from architecture firm.

I. City Architect's Office/ Public Works Dept.

Prepare Request for Ordinance in coordination with the City Attorney's Office.

J. Director/Public Works Dept.

Review the Request for Ordinance. Recommend revisions or approve the Request for Ordinance as written.

Two-Step Process

All architectural service contracts must use a "two step" procurement process of first determining the most competent and qualified firm, and then negotiating a fair and reasonable price.

Complex Architectural Contracts

When architectural services are particularly complex or of a particularly large dollar amount, the City Attorney's Office should be asked to draft the contract.

Law on Architecture & Engineering

Texas Government Code § 2254.004 governs procurement of architectural, landscape architecture, and engineering services by municipal government. <http://www.capitol.state.tx.us/statutes/go/go0225400.html#go005.2254.004>

Standard Contract

Standard architecture and engineering contracts are included in this manual, see [Appendix B](#).

Policy Directive

The evaluation criteria for architecture Request for Qualifications must be consistent.

Alternative evaluation criteria must be coordinated by the Public Works/Capital Programs Division and the Department of Asset Management/Contract Services Division.

Architecture Contracts and Departments Other than Public Works

- The Public Works Department must be consulted and assist in the procurement of architectural or engineering services.

- Other Department Directors may execute contracts for the services of an architect valued at \$25,000 or less without City Council approval provided three (3) conditions are met:

1) The contract must be provided for in the budget;

2) The procurement must be coordinated through the Public Works Department, Capital Programs Division;

3) The architect must be selected in accordance with the two-step process, and the department should be able to document the architectural selection and contract negotiation.

Policy Directive

All architectural contracts that have at least one risk assessment criterion characterized as "high" may be subject to a Management Team review. [See Chapter 4, Section 1]

Contact the Contract Services Division for assistance with the Management Team review process.

K. Capital Programs Division/ Public Works Dept.

Schedule ordinance for City Council consideration.

L. City Council

Consider ordinance.

M. Capital Programs Division/ Public Works Dept.

Step 1 Obtain required insurance certificates and bonds. Submit insurance certificates to Risk Management for review and approval.

Step 2 Prepare Magna Carta Memo and obtain signatures on contracts from Public Works Director and City Manager.

Step 3 Distribute copy of contract to City Architect's Office.

Step 4 Distribute original contracts to City Clerk's Office and architectural firm.

N. City Architect's Office/ Public Works Dept.

Authorize architecture firm to begin work in accordance with contract schedule.

O. Originating Department

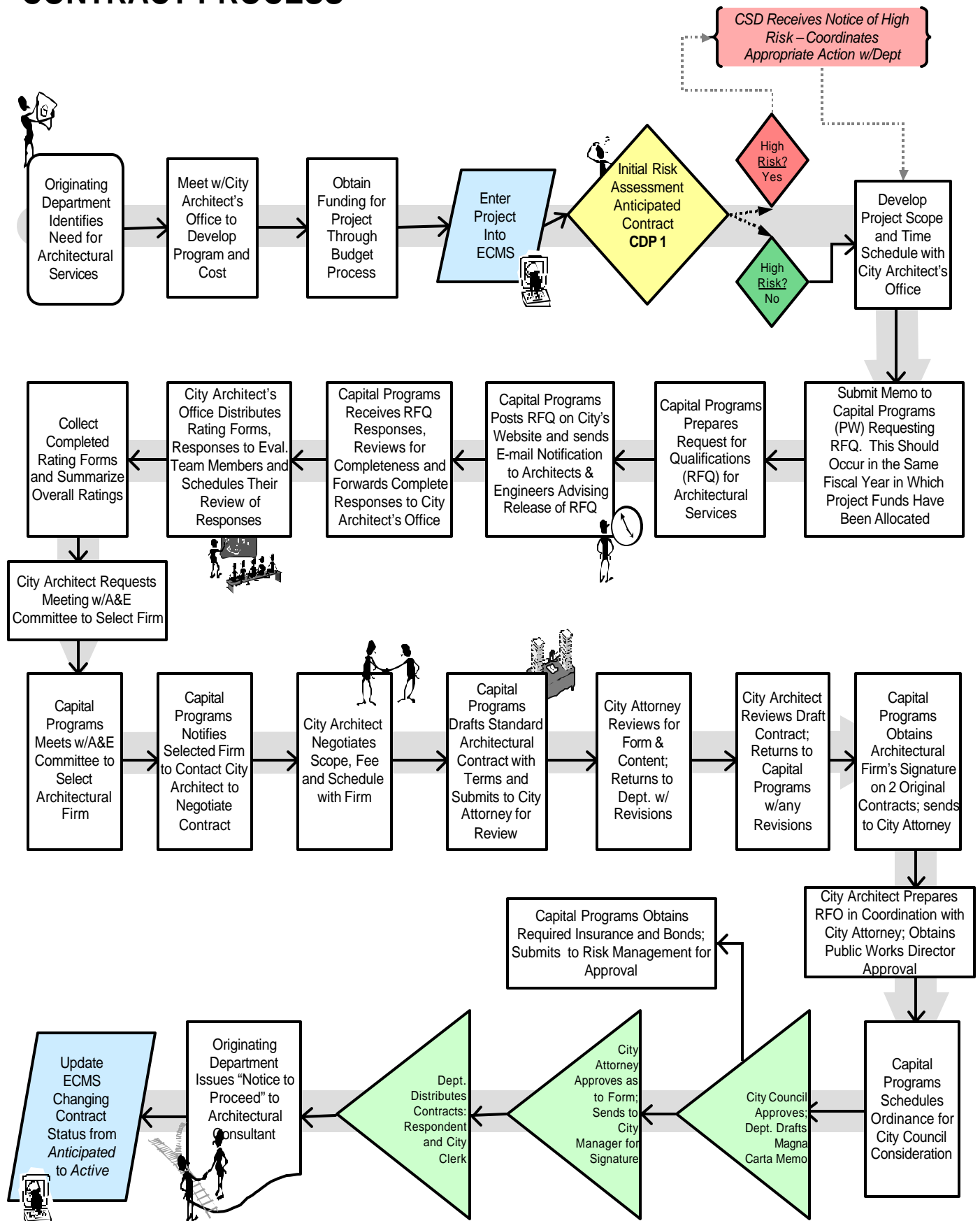
Step 1 Update ECMS, changing contract status from *Anticipated* to *Active*.

Step 2 Complete Performance Evaluation Form upon conclusion of architectural services (sample).

Note:

The Parks and Recreation Department and the Aviation Department may conduct specific architectural and engineering agreements as well as certain construction contracts in coordination with the Public Works Department, but must follow the appropriate process steps and obtain all required approvals (i.e., City Attorney's Office, Risk Management, etc.).

ARCHITECTURAL SERVICES CONTRACT PROCESS



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THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 38-40 FOR COMPLETE INSTRUCTIONS

DEFINITION

A catering agreement is a type of concession agreement required for City facilities that host public and private events.

Catering Agreements

The following steps apply when a department wishes to establish a contractual relationship with firms to provide catering services on City property.

The originating department starts by first establishing and seeking City Council approval of a Usage Policy that defines the requirements caterers must meet in order to provide service at a specific City facility. To offer variety, the department may enter into catering agreements with multiple firms that meet the Usage Policy requirements. Customers using a City facility then select and work directly with an approved caterer. In the event a department wishes to select an exclusive caterer, the Request for Proposal (RFP) process, described in Chapter 3, should be utilized.

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Identify location(s) where catering will be permitted.
Step 2	Draft Usage Policy and Catering Agreement, which define requirements to be followed by caterers when servicing City property. Usage Policy may authorize department director to approve, sign, negotiate, and amend Catering Agreements. Contact Dept. of Asset Management/Contract Services Division and/or City Attorney's Office for assistance, if necessary. Forward draft document to Dept. of Asset Management/Contract Services Division, Risk Management Division, and City Attorney's Office.
B. Contract Services Division/ Asset Management	
	Review draft Usage Policy and Catering Agreement. Provide recommendations to originating department.
C. Risk Management Division	
	Review draft Usage Policy and Catering Agreement. Provide recommendations to originating department.
D. City Attorney's Office	
	Review draft Usage Policy and Catering Agreement. Provide recommendations to originating department.
E. Originating Department	
Step 1	Incorporate recommendations and finalize Usage Policy and Catering Agreement.
Step 2	Prepare the Usage Policy and Catering Agreement for placement on the City Council Agenda for consideration by completing a Request for Ordinance (RFO) and a Memorandum to City Council describing the agreement. (For assistance, refer to Chapter 4, Section 18, "Preparing a Contract For Council Consideration").

F. City Council

Consider Usage Policy and Catering Agreement.

G. Originating Department

If approved by City Council, notify caterers of Usage Policy and invite caterers to sign Catering Agreement and all required attachments.

H. Caterer

Submit signed Catering Agreement with required attachments to department.

I. Originating Department

Review Catering Agreement and attachments for completeness. If incomplete, return to caterer with instructions for correction. If complete, forward to Risk Management and City Attorney's Office for approval.

J. Risk Management

Review Catering Agreement, attachments and Certificate of Insurance. Provide approval/recommendations to originating department.

K. City Attorney's Office

Review Catering Agreement and attachments. Provide approval/recommendations to originating department.

L. Originating Department

- Step 1 Director or designee signs Catering Agreement.
- Step 2 Notify caterer of approval and provide copy of signed Catering Agreement.
- Step 3 Enter information pertaining to Catering Agreement into the Electronic Contract Management System (ECMS) as an *Active* record with an estimated dollar value. Update ECMS record with actual dollar amounts as caterer provides services during term of agreement.

Points to Consider

- If caterers are allowed to serve liquor, obtain copy of liquor license and proof of coverage for liquor liability.
- If caterers use servers from a temporary agency, obtain certificate of insurance from the temporary agency and ensure coverage is appropriate and adequate and the City is named as an additional insured.
- If a new or unfamiliar caterer applies to provide services, check his/her references.

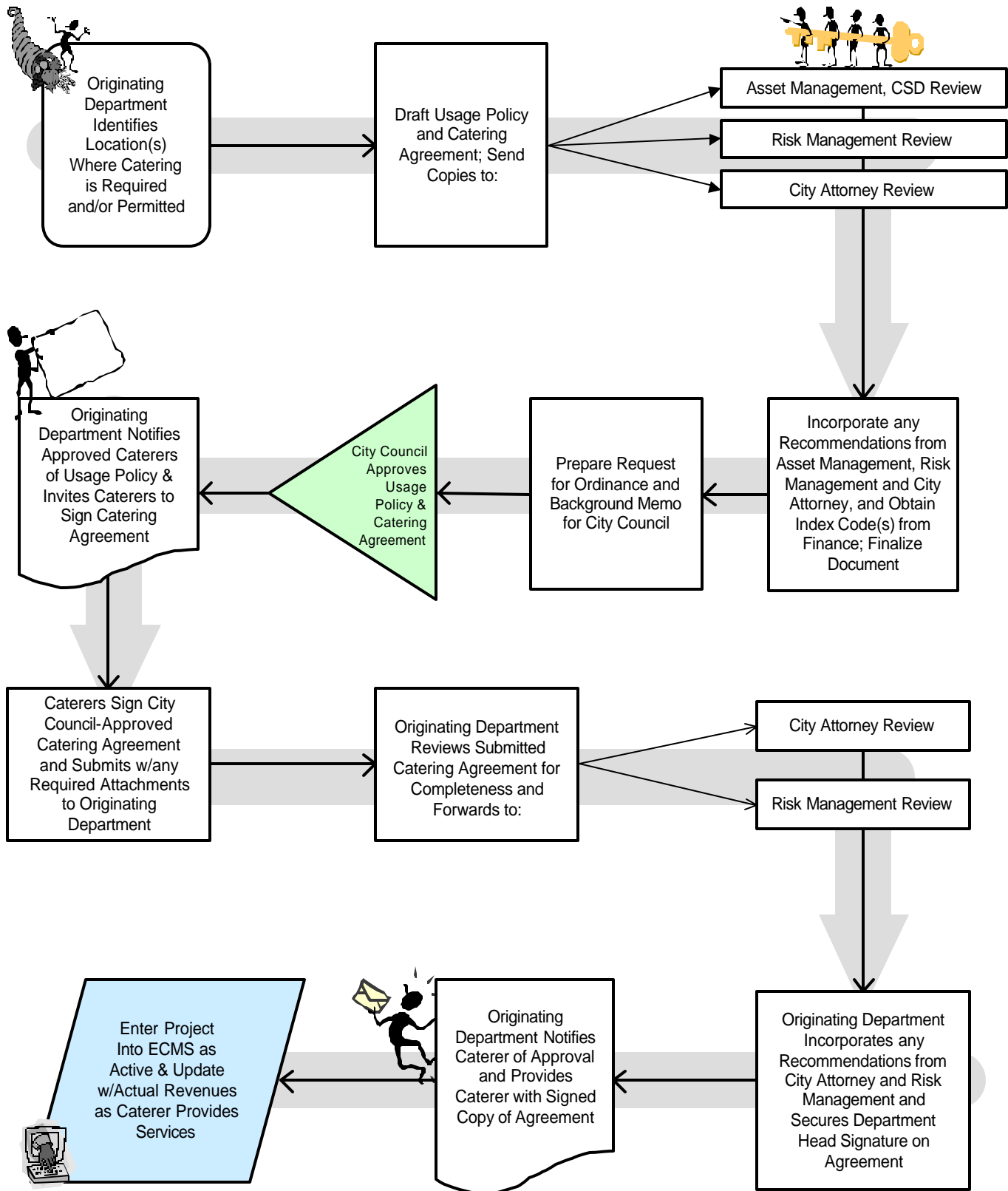
Record Keeping

Maintain a file for each caterer, including food permits, liquor licenses, and Certificates of Insurance. Monitor expiration dates for each. Require caterers to provide new permits, licenses, and certificates as necessary.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

CATERING AGREEMENTS USAGE POLICY STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 42-43 FOR COMPLETE INSTRUCTIONS

Concession Agreements

Concession agreements permit City property to be used by another party to operate a retail sales business, amusement activity, or service. The City may enter into concession agreements in the form of a license or a lease.

Responsible Party

Process Step

A. Originating Department

- | | |
|--------|---|
| Step 1 | Identify City property to be used for concession. Define the type of concession to be permitted. |
| Step 2 | Enter the information pertaining to the agreement into the Electronic Contract Management System (ECMS) as an <i>Anticipated</i> revenue contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Contract Services Division of the Dept. of Asset Management are notified that the project shall be candidate for additional review by all coordinating departments and if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual . |
| Step 3 | Optional Step. Retain consultant through the use of a professional services contract. For example, the Aviation Dept. hires a consultant to recommend the most advantageous combination of food and merchandise retailers to lease space in the airport. In addition, the consultant serves as the property manager on behalf of the Aviation Dept. Refer to Chapter 4, Section 15 Professional Services Agreement Process Steps. |
| Step 4 | Identify and establish members of Evaluation Team. Select members familiar with the type of concession or with the property to be used for the concession. Include a representative from the Small Business Office of the Economic Development Dept. |
| Step 5 | Draft Request for Proposal document and include a draft of the proposed contract. Contact Dept. of Asset Management for assistance, if necessary. |
| Step 6 | Forward draft Request for Proposal document and proposed contract for review to City Attorney's Office, Risk Management Division/ Dept. of Asset Management, and Economic Development Dept. |

DEFINITION

A license or lease agreement in which the City allows another party to use City owned property to operate and/or manage a retail sales business, amusement activity, or service. The concession may be owned by the City and managed by a third party, or the concession rights may be owned by the third party.

Advertising Concession RFPs

Request for Proposals must be advertised in “minority-targeted media no less than 30 days” before responses are due. Request for Proposal may also be posted to the City’s website and provided to the Small Business Office of the Economic Development Dept. for posting on “bid board.”

Point of Sale (“POS”) Systems

Many of the City’s Concession agreements are revenue contracts, and the fees Concessionaires pay the City are based on a percentage of gross sales. To ensure accountability and compliance with the percentage-based fee to the City, it is highly recommended that originating departments entering into new concession agreements require point-of-sale systems be used by their concessionaires in conducting daily sales and generating monthly and annual revenue reports to the City. To learn more about POS systems, their applications and internal control aspects, please contact the Contract Services Division at 207-2073 or visit one of many websites devoted to POS systems at <http://www.steponesolutions.com/>.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include “sunset provision” within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

A. Originating Department

Step 7 Finalize Request for Proposal, incorporating recommendations from City Attorney’s Office, Risk Management Dept., Asset Management, and Economic Development Dept.

Step 8 Advertise Request for Proposal.

B. City Clerk’s Office

Receive responses to Request for Proposal.
Forward responses to department.

C. Originating Department

Convene Evaluation Team for evaluation of responses to Request for Proposal. Review and rate proposals. Invite respondents to conduct presentations and submit to interviews, if necessary. Identify the highest scoring respondent and negotiate or formalize terms and conditions. Present to Management Team and/or City Council committee, if appropriate.

D. City Attorney’s Office

Finalize draft version of contract with proposal terms from highest scoring respondent.

E. Originating Department

Step 1 Acquire signature from concessionaire on two original contracts.

Step 2 Prepare the agreement for placement on the City Council agenda for consideration by completing a Request for Ordinance (RFO) and a Memorandum to City Council . For assistance, refer to Chapter 4, Section 18 “Preparing A Contract For City Council Consideration”.

F. City Council

Consider the proposed contract and if approved, authorizes the City Manager or designee to execute the agreement.

G. Originating Department

Draft Magna Carta memo (if applicable) and forward with contract originals to the City Attorney’s Office.

H. City Attorney’s Office

Sign the contract indicating that it is approved as to form, and forward all originals and Magna Carta memo (if applicable) to the City Manager’s Office.

I. City Manager's Office

Sign the approved contract and return all originals to the department for distribution.

J. Originating Department**Step 1**

Send one signed original of contract to contracting party. Send one signed original to the City Clerk's Office. Send photocopies to the project manager/coordinator and departmental contracting officer.

Step 2

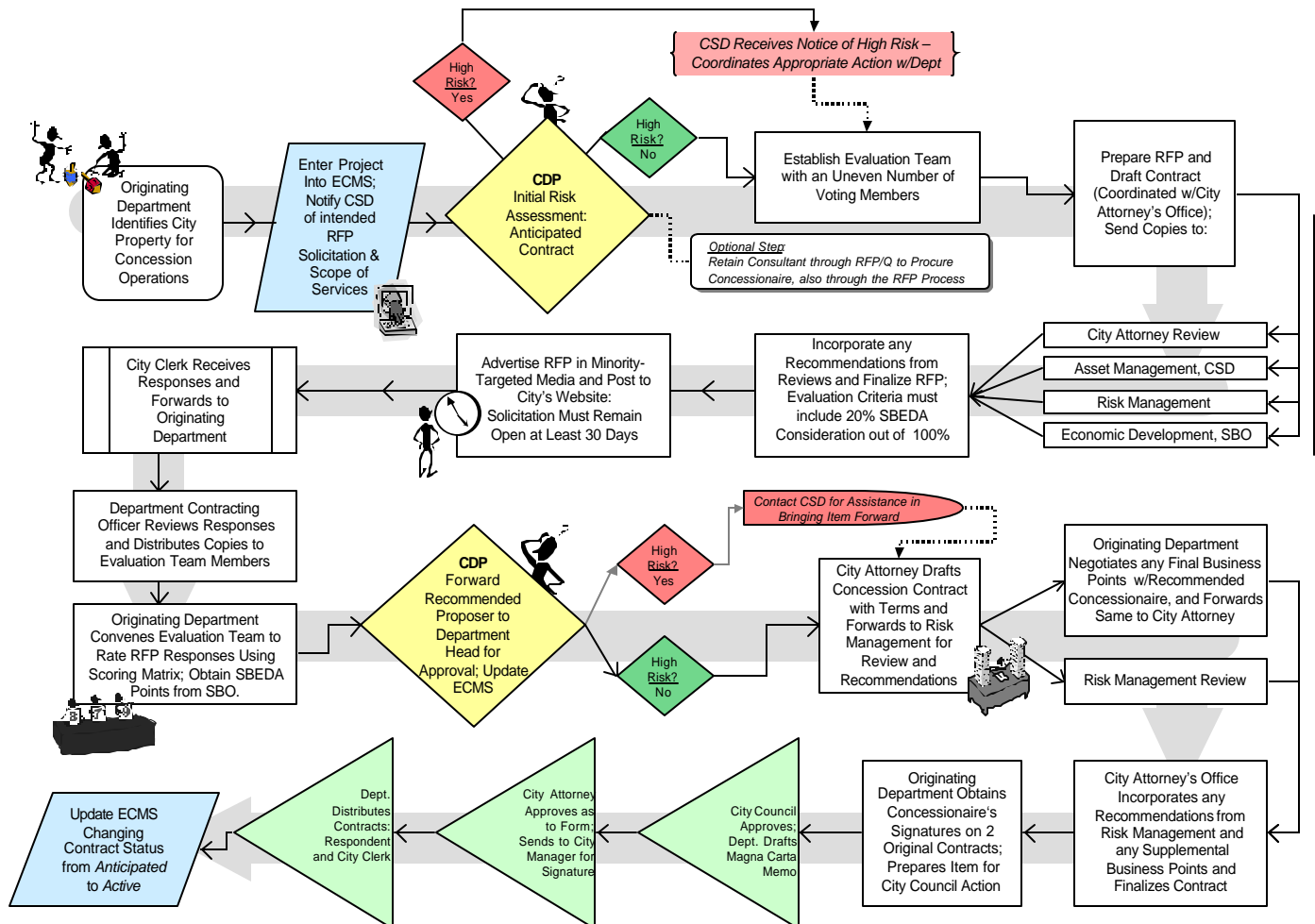
Update ECMS, changing contract status from *Anticipated* to *Active*. Details for this step are outlined in the [ECMS Operation Manual](#).

Contract Retention

The department should not retain an original contract.

Policy Directive

Insurance **Certificates**
reflecting **contractual**
insurance **requirements**
as well as any required Bonds
(Performance and/or
Payment Bonds) **must be**
received prior to the
commencement of any work
under the contract. To the
extent possible, contractors
and vendors should be asked
to provide insurance
certificates and bonds prior
to Council consideration.

CONCESSION CONTRACT PROCESS

THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 45-46 FOR COMPLETE INSTRUCTIONS

DEFINITION

A contract for the alteration, modification, repair, building or erecting of a public work or improvement.

Construction Contracts

The following reflects the procedures to be used for the development of a Construction Project not being performed by City construction staff. In this particular process, design and construction documents are assumed to have been produced and all approvals have been received by advisory boards, the Historic Design and Review Commission and the City Architect's Office.

Please note that these procedures are for routine construction projects. In instances when a contract is particularly complex or involves an extraordinarily large dollar amount, the City Attorney's Office should be requested to draft the contract after receiving the business points from the originating department.

Construction Projects under \$50,000: Projects estimated to cost less than \$50,000 are to be routed through the Purchasing Department for procurement. See Chapter 4, Section 16 for processes related to construction projects less than \$50,000.

Responsible Party

Process Step

(Note: Often, an engineering or architectural consulting firm has been employed by the city to develop specifications and assist in the evaluation of construction bids.)

A. Managing Department

- | | |
|--------|--|
| Step 1 | Identify a need for construction contract and verify that project cannot be performed by City construction staff (i.e., Public Works or Parks and Recreation). Fully define the project with estimated cost for construction. |
| Step 2 | Ensure budgeted funds are available for contract payment. |
| Step 3 | Enter the information pertaining to this project into the Electronic Contract Management System (ECMS) as an <i>Anticipated</i> contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Dept. of Asset Management/Contract Services Division are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual . |
| Step 4 | Submit request to Public Works, Capital Programs Division, to prepare and advertise Invitation to Bid for construction project (see Appendix C for sample request form). |

B. Capital Programs Division/ Public Works Department

Prepare Invitation to Bid and attach copy of proposed construction contract. Advertise Invitation to Bid in accordance with Texas Statute 2156.002 – 2156.003.

C. Managing Department

OPTIONAL STEP: Hold pre-bid conference to acquaint interested bidders with project specifics and to answer any questions for bidders.

D. City Clerk's Office

Receive and open bids, and forward responses to the Managing Department (see notes on "Managing Department" below).

E. Managing Department

Step 1 Send copies of bid responses to architectural or engineering consultant for review and award recommendation.

Step 2 Send copies of bid responses to Capital Programs for file.

Step 3 Send list of apparent low bidder's subcontractors to the Small Business Office of Economic Development Dept. (Subcontractors are identified on List of Subcontractors form or Good Faith Effort Plan form, submitted as part of bid).

OPTIONAL STEP: Conduct Administrative hearing with contractor when there are concerns regarding ability to perform. All administrative hearings should be coordinated with the Capital Programs Division.

Step 4 Draft contract and forward to City Attorney's Office.

F. City Attorney's Office

Review draft contract. Provide recommendations to managing department

G. Managing Department

Step 1 Incorporate recommendations and finalize contract.

Step 2 Prepare Request for Ordinance (RFO) and City Council memo.

Step 3 Obtain signature on two original contracts from contractor.

H. City Council

Consider ordinance.

I. Managing Department

Step 1 Obtain bonds and insurance certificate from contractor.

Step 2 Submit insurance certificate to Risk Management Division for review.

J. Risk Management

Review insurance certificate and advise Managing Department of its acceptability or its deficiencies.

K. Managing Department

Step 1 Forward contract and attachments to Department Director for review and approval.

Step 2 Forward to City Manager's Office for signature.

Pre-Bid Conferences

All pre-bid conferences should be coordinated with the Public Works Capital Programs Division.

Bond Funded Projects

All construction contracts funded with bond and certificate of obligation monies require City Council approval, regardless of value.

Bond Requirements

Payment bonds are required on construction contracts greater than \$25,000 and performance bonds are required on construction contracts greater than \$100,000. A payment bond guarantees payment of a contractor's suppliers and subcontractors. A performance bond guarantees completion of the contracted work. Both payment and performance bonds must be written for 100% of the contract value.

Standard Construction Contracts

Generally, the standard construction contract contained in this manual ([Appendix B](#)) should be used for construction projects. When a project is particularly complex or involves a large dollar amount, the City Attorney's Office should be requested to draft the contract.

Managing Department

For construction contracts, the term "Managing Department" is used to refer to one of two departments who manage their own construction projects, though coordinate these through the Department of Public Works: The Departments of Aviation and Parks & Recreation.

Field Alterations

Originating/Managing departments may approve field alterations as long as the amount is within the available contingency amount and/or is \$25,000 or less.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include “sunset provision” within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Insurance Certificates reflecting contractual insurance requirements as well as any required Bonds (Performance and/or Payment Bonds) must be received prior to the commencement of any work under the contract. To the extent possible, contractors and vendors should be asked to provide insurance certificates and bonds prior to Council consideration.

L. City Manager's Office

Review contract and attachments, indicating approval with signature on contract. Forward to City Clerk's Office.

M. City Clerk's Office

Retain original contract and attachments. Forward photocopy of contract to Managing Department.

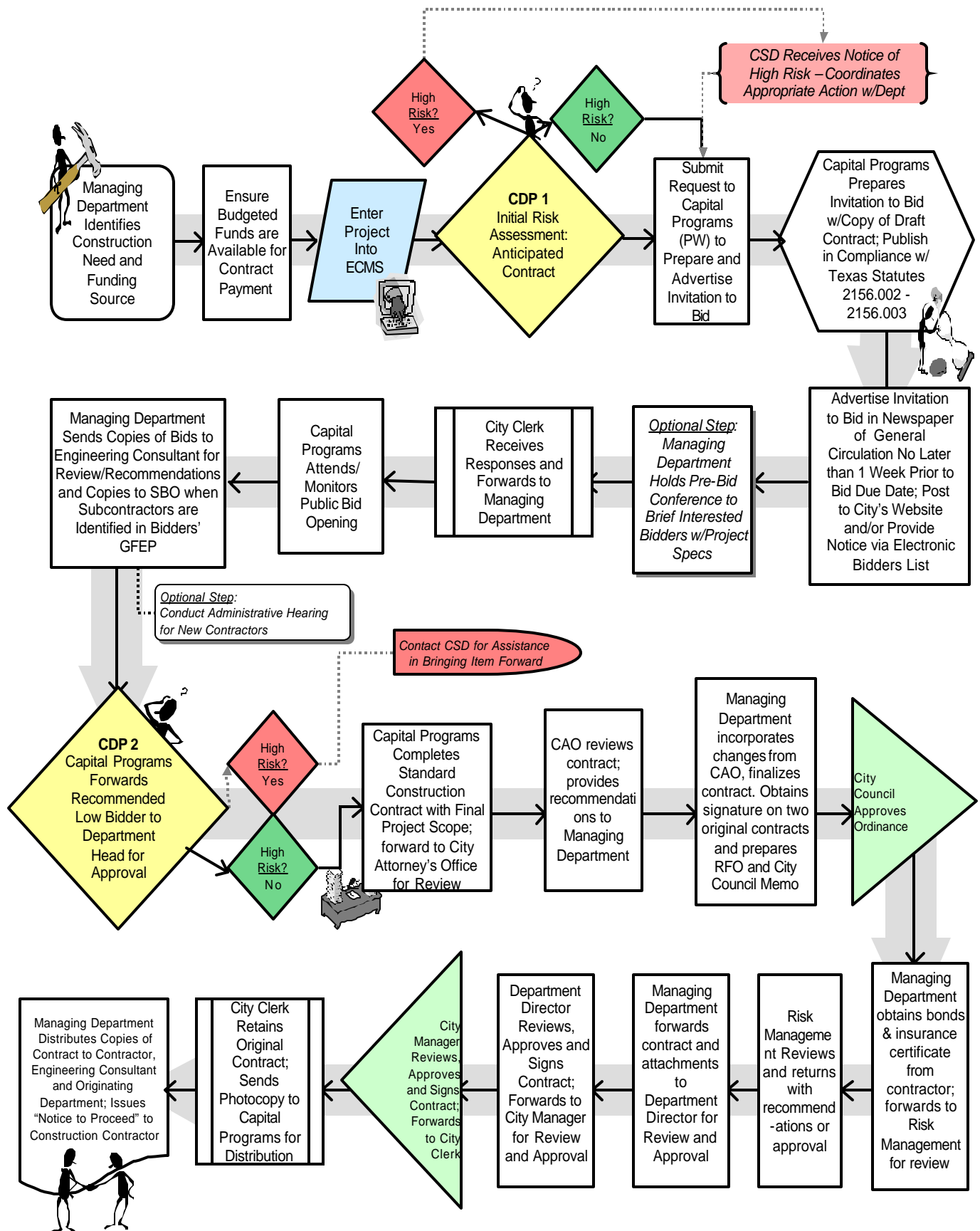
N. Managing Department

- Step 1 Distribute photocopies of contract and attachments to contractor, engineering consultant, and Capital Programs Division, Public Works Department.
- Step 2 Retain photocopies of contract and attachments in dept. file.

O. Managing Department

Update ECMS, changing contract status from *Anticipated* to *Active*.

CONSTRUCTION OVER \$50K CONTRACT PROCESS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 49-50 FOR COMPLETE INSTRUCTIONS

Economic Development Contracts

The City of San Antonio has a number of programs designed to stimulate job creation and promote the expansion and diversification of San Antonio's economic base. By offering incentives and benefits these programs promote business expansion, and development projects that support desired industries and community revitalization initiatives.

Tax Abatement

Tax Abatement (also known as Tax Phase-In) incentives may be offered to businesses in targeted industries based on job creation, investment, and wages paid to employees. The City is pro-business and offers an attractive incentive program for retaining and recruiting businesses. Revised Tax Phase-In Guidelines were approved in March 2001.

Tax Increment Financing

Tax Increment Financing is a tool, governed by the TIF Act, found in Chapter 311 of the Texas Tax Code, that local governments can use to publicly finance needed residential and commercial public improvements and enhanced infrastructure within a defined area, called a Tax Increment Reinvestment Zone (TIRZ). To be designated as a TIRZ, areas must be economically distressed, unproductive, underdeveloped, or blighted, and impair the City's growth because of those factors.

Industrial Development Bonds

The City of San Antonio has created non-profit corporations and authorities for the purpose of issuing tax-exempt program bonds to encourage certain types of development. The Industrial Development Authority (IDA) can issue qualified tax-exempt bonds to acquire land and create manufacturing facilities that have a development cost under \$10 million. The Health Facilities Development Corporation (HFDC) can issue tax-exempt bonds for non-profit organizations towards the development of health care facilities. The Education Facilities Corporation (EFC) may issue tax-exempt bonds for capital improvements at non-profit institutions of higher education, as well as non-public or state-authorized charter schools providing primary and/or secondary education services.

Foreign Trade Zone

The Foreign Trade Zone program helps to distribute goods and services around the world in one of ten existing general trade zones. This access to global markets increases visibility and maximizes market share.

Freeport Exemption

Freeport property includes various types of goods that are detained in the City for a short period of time, and for a limited purpose, such as storage of factory products. This exemption was enacted to attract warehouse and distribution center facilities by offering a special property tax exemption for goods typically handled.

Engineering Service Contracts

All engineering service contracts must use a “two-step” procurement process of first determining the most competent and qualified firm, and then negotiating a fair and reasonable price.

The following steps apply to engineering service contracts greater than \$25,000 or funded by bonds or certificates of obligation.

Engineering service contracts less than \$25,000 in value and not bond funded, may utilize the following steps, if desired; however, City Council approval, application of SBEDA scoring criteria, and advertising the requirement are not mandatory. Alternate methods of determining a firm's competence and qualifications prior to selection and price negotiation include contact by telephone, e-mail, fax, or mail.

Responsible Party

Development Step

A. Originating Department

- Step 1 Identify need to secure engineering services.
- Step 2 Obtain/ensure funding for project through budgeting process.
- Step 3 Enter the information pertaining to this project into the Electronic Contract Management System (ECMS) as an *Anticipated* contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as “high risk,” the director of the originating department and the Dept. of Asset Management/Contract Services Division are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the [ECMS Operation Manual](#).
- Step 4 Develop project description and scope of services.
- Step 5 Submit memo ([SAMPLE](#)) to Capital Programs Division/Public Works Department requesting issuance of Request for Qualifications (RFQ). This step should occur in the fiscal year the funds have been allocated.

B. Capital Programs Division/ Public Works Dept.

- Step 1 Develop RFQ.
- Step 2 Post RFQ on City's website and send e-mail notification to architects/engineers advising them of RFQ.
- Step 3 Receive responses to RFQ and review for completeness.
- Step 4 Forward all complete responses to RFQ to City Engineer's Office.

DEFINITION

A professional services agreement in which the City hires an engineer or engineering firm to perform a service that falls within the scope of the practice of engineering, as defined by state law. This is not a construction contract.

Two-Step Process

All engineering service contracts must use a "two step" procurement process of first determining the most competent and qualified firm, and then negotiating a fair and reasonable price.

Complex Engineering Contracts

When engineering services are particularly complex or of a particularly large dollar amount, the City Attorney's Office should be asked to draft the contract.

Law on Architecture & Engineering

Texas Government Code § 2254.004 governs procurement of architectural and engineering services by municipal government. <http://www.capitol.state.tx.us/statutes/go/go0225400.html> - go005.2254.004

Standard Contract

Standard architecture and engineering contracts are included in this manual, see Appendix B.

Policy Directive

The evaluation criteria for engineering Request for Qualifications must be consistent.

Alternative evaluation criteria must be coordinated by the Public Works/Capital Programs Division and the Department of Asset Management/Contract Services Division.

C. City Engineer's Office/ Public Works Dept.

- Step 1 Distribute rating forms and responses to RFQ to designated Evaluation Team members.
- Step 2 Establish schedule for review of responses to RFQ, and notify Evaluation Team members of due date for rating forms.
- Step 3 Collect completed rating forms and prepare overall ratings.
- Step 4 Conduct interviews with highest rated firms, if necessary.
- Step 5 Send memo with ratings to Capital Programs Division, requesting meeting with Public Works Director's Architectural and Engineering (A & E) Committee for selection of firm.

D. Capital Programs Division/ Public Works Dept.

- Step 1 Facilitate A & E Committee meeting to select engineering firm.
- Step 2 Notify selected engineering firm to contact City Engineer's Office to negotiate contract.

E. City Engineer's Office/ Public Works Dept.

Negotiate scope of services, fee, and schedule with engineering firm.

F. Capital Programs Division/ Public Works Dept.

Draft standard contract. Any deviations from standard contract developed by City Attorney's Office requires City Attorney's Office approval.

G. City Engineer's Office/ Public Works Dept.

Review draft contract. Recommend revisions or approve contract as written.

H. Capital Programs Division/ Public Works Dept.

Obtain signatures on two original contracts from engineering firm.

I. City Engineer's Office/ Public Works Dept.

Prepare Request for Ordinance in coordination with the City Attorney's Office.

J. Director/Public Works Dept.

Review Request for Ordinance. Recommend revisions or approve Request for Ordinance as written.

**K. Capital Programs Division/
Public Works Dept.**

Schedule ordinance for City Council consideration.

L. City Council

Consider Ordinance.

**M. Capital Programs Division/
Public Works Dept.**

- Step 1 Obtain required insurance certificates and bonds. Submit insurance certificates to Risk Management for review and approval.
- Step 2 Prepare Magna Carta [\(SAMPLE\)](#) memo and obtain signatures on contract from Public Works Director and City Manager.
- Step 3 Distribute copy of contract to City Engineer's Office.
- Step 4 Distribute original contracts to City Clerk's Office and engineering firm.

**N. City Engineer's Office/
Public Works Dept.**

Authorize engineering firm to begin work in accordance with contract schedule.

O. Originating Department

- Step 1 Update ECMS, changing contract status from *Anticipated* to *Active*.
- Step 2 Complete Performance Evaluation Form upon conclusion of engineering services [\(SAMPLE\)](#).

Note:

The Parks and Recreation Department and the Aviation Department may conduct specific architectural and engineering agreements as well as certain construction contracts in coordination with the Public Works Department, but must follow the appropriate process steps and obtain all required approvals (i.e., City Attorney's Office, Risk Management, etc.).

Policy Directive

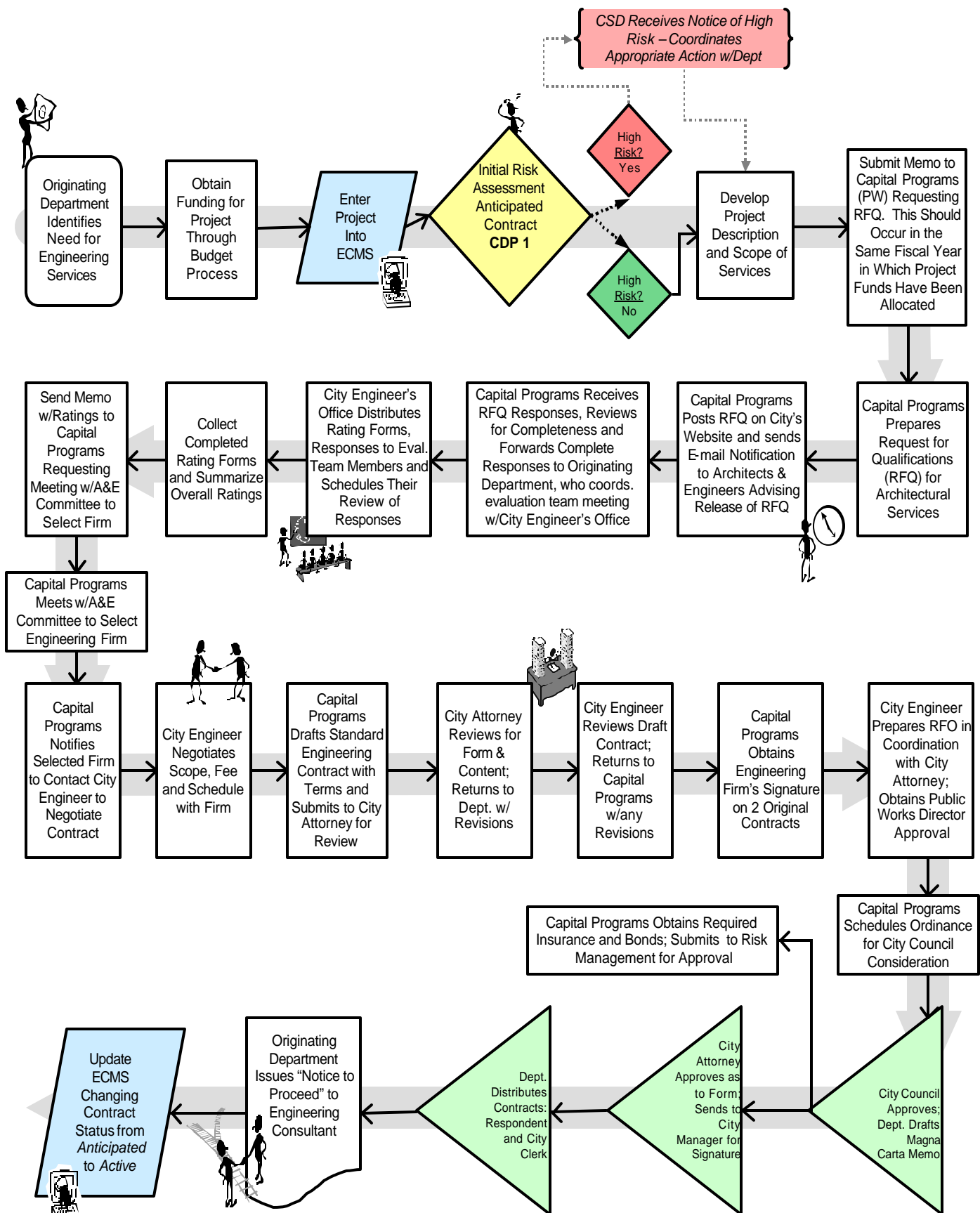
All engineering contracts that have at least one risk assessment criterion characterized as "high" may be subject to a Management Team review. [See Chapter 4, Section 1]

Contact the Contract Services Division for assistance with the Management Team review process.

**Engineering Contracts and
Departments other than Public
Works**

- The Public Works Department must be consulted and assist in the procurement of architectural or **engineering** services.
- Other Department Directors may execute contracts for the services of an engineer valued at \$25,000 or less without City Council approval provided three (3) conditions are met:
 - The contract must be provided for in the budget;
 - The procurement must be coordinated through the Public Works Department, Capital Programs Division.
 - The engineer must be selected in accordance with the two-step process, and the department should be able to document the engineering selection and contract negotiation.

ENGINEERING SERVICES CONTRACT PROCESS



Franchise Agreements

The City generally does not solicit or advertise for general public service providers to use its property. Instead, companies interested in using the City right-of-way to provide a "general public service" contact the City. As noted below, the City Attorney's Office and the Public Utilities Division of the Finance Department are directly involved in the franchise agreement process.

The City Charter does not require franchise agreements for City-owned utilities (San Antonio Water System and City Public Service), and state law prohibits cities from requiring franchise agreements of local telephone providers.

Responsible Party

Process Step

A. Applicant

Contact the Finance Department, Public Utilities Division to use right-of-way in order to provide a public service.

B. Public Utilities Division/Finance Department

Step 1 Provide questionnaire to applicant.

Step 2 Advise City Attorney's Office of applicant's request to use right-of-way.

C. Applicant

Complete questionnaire and return to Finance Department, Public Utilities Division.

D. Public Utilities Division/Finance Department

Step 1 Meet with the City Attorney's Office to determine if request is in the public interest. If determined not to be in public interest, advise applicant. If determined to be in public interest, contact other potentially interested departments (i.e., Public Works and Information Technology Services).

Step 2 Contact applicant and negotiate terms of the agreement with the assistance of City Attorney's Office.

E. City Attorney's Office

Step 1 Provide assistance to Public Utilities Division/Finance Department with negotiating terms of the agreement with applicant.

Step 2 Draft agreement.

DEFINITION

An agreement in which the City allows another party to use the City right of way to provide a public service (i.e., cable or broadband communications). The service must be provided City-wide.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include “sunset provision” within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Any extension or renewal for a contract characterized as “high risk” cannot be extended or renewed administratively. All extensions or renewals for “high risk” contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

F. Public Utilities Division/ Finance Department

Prepare the agreement for placement on the City Council agenda for consideration, by completing a Request for Ordinance (RFO) and Memorandum to City Council describing the parameters of the agreement. For assistance, refer to Chapter 4, Section 18, “Preparing a Contract for City Council Consideration.”

The item must have 3 public readings before City Council.

The 1st and 3^d readings must be at least 30 days apart. The time for the 2^d reading is published in the newspaper.

G. City Council

Vote on the issue at each of the 3 readings. If approved, authorize the City Manager or designee to execute the agreement.

H. Public Utilities Division/ Finance Department

Prepare Magna Carta memorandum.

I. City Attorney’s Office

Sign the agreement indicating that it is approved as to form, and forward all originals to the City Manager’s Office for signature.

J. City Manager’s Office

Sign the approved agreement and return all originals to the Finance Department for distribution.

K. Public Utilities Division/ Finance Department

Step 1 Send one signed original of the agreement to the contracting party. Send one signed original to the City Clerk’s Office. Send photocopies to the project manager/coordinator and departmental contracting officer. **Departments do not retain original contract documents.**

The agreement does not take effect until 60 days after the 3^d City Council approval.

Step 2 Enter the agreement into ECMS as an *Active* record. Details for this step are outlined in the [ECMS Operation Manual](#).

Acceptance of Grant Funds

The following steps should be used when applying for a grant and accepting grant funds. Appropriate departmental authority must be obtained prior to submission of grant applications.

Responsible Party

Process Steps

A. Originating Department

- Step 1 Identify community/City need.
- Step 2 Identify an appropriate source of grant funding to address the community/City need. Determine support of need meets department's mission and objectives.
- Step 3 Document departmental authority to proceed with application process.
- Step 4 Enter the information pertaining to the grant application into the Electronic Contract Management System (ECMS) as an *Anticipated* revenue contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Contract Services Division of the Dept. of Asset Management are notified that the application shall be a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the [ECMS Operation Manual](#).
- Step 5 Prepare item to be placed on the City Council agenda, seeking approval for the grant application by completing a Request for Ordinance (RFO) and Memorandum to City Council describing the request. (For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For Council Consideration").

B. City Council

Consider proposed grant application and approve or deny department recommendation to apply.

C. Originating Department

Submit completed grant application according to the guidelines of the funding source, if City Council grants authority to do so.

D. Funding Source

Notify City of award and forward agreement(s) for execution.

E. Originating Department

Forward agreement(s) to City Attorney's Office and Risk Management for review.

F. City Attorney's Office

Review agreement(s) and return with recommendations to originating department.

DEFINITION

Agreements between the City and another entity wherein the City receives grant funds from the entity and is obligated to perform a service or function in exchange for the grant funds.

The City may perform the service or function itself when receiving grant funds. An example would be a grant from the Federal Government to fund a position of family violence prosecutor at Municipal Court.

Chapter 4 - Section 9

Perform Service In-House

If the City will be the provider of the services, the request for ordinance package must also indicate the plan for the provision of services. If the City will not be the provider of the services, refer to "Process Steps for Delegate Agency/Subrecipient Contracts."

Grant Writer's Handbook

The Grant Application process is fully discussed in the Grant Writer's Handbook which is available at <http://cosaweb/hr/GrantWriting.pdf>.

Entitlement Grants

Entitlement grants do not follow these process steps. See the Grant Writer's Handbook for more information.

Grants Management

Grants Management is a process to ensure a project/program operates according to the proposed timeline and plan on which the receipt of grant funds is based. Some key points to remember include:

➤ In seeking grant funds for your department's proposed project/program, consult the *Federal Register*, which lists availability of grants and their funding cycles and can be accessed on-line at <http://www.gpo.gov/su/docs/aces/aces140.html>

➤ Upon identifying grant funds that meet your department's goals, prepare a "Request for Ordinance" (RFO) requesting City Council approval for the submission of the grant application. The City Charter (Section 18) requires Council approval prior to any monetary appropriation;

➤ Prior to receiving grant funds, be sure to develop the auditing and monitoring tools needed by departmental staff in administering the project/program. The Office of Management and Budget (OMB) publishes management policies and guidelines through circulars and common rules. In addition, the City of San Antonio has published a grantsmanship handbook on line at <http://cosaweb/hr/GrantWriting.pdf>.

G. Risk Management

Review agreement(s) and return with recommendations to originating department.

H. Originating Department

- Step 1 Negotiate changes to agreement with funding source based on recommendations from Risk Management and City Attorney's Office, if necessary.
- Step 2 Prepare an item to be placed on the City Council agenda, seeking approval to accept the grant funds by completing a Request for Ordinance (RFO) and Memorandum to City Council. For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For City Council Consideration."

I. City Council

Consider agreement. If approved, authorize City Manager or designee to execute the agreement.

J. Originating Department

Prepare magna carta memorandum. Prepare duplicate original agreements.

K. City Attorney's Office

Sign the agreements, indicating approval as to form.

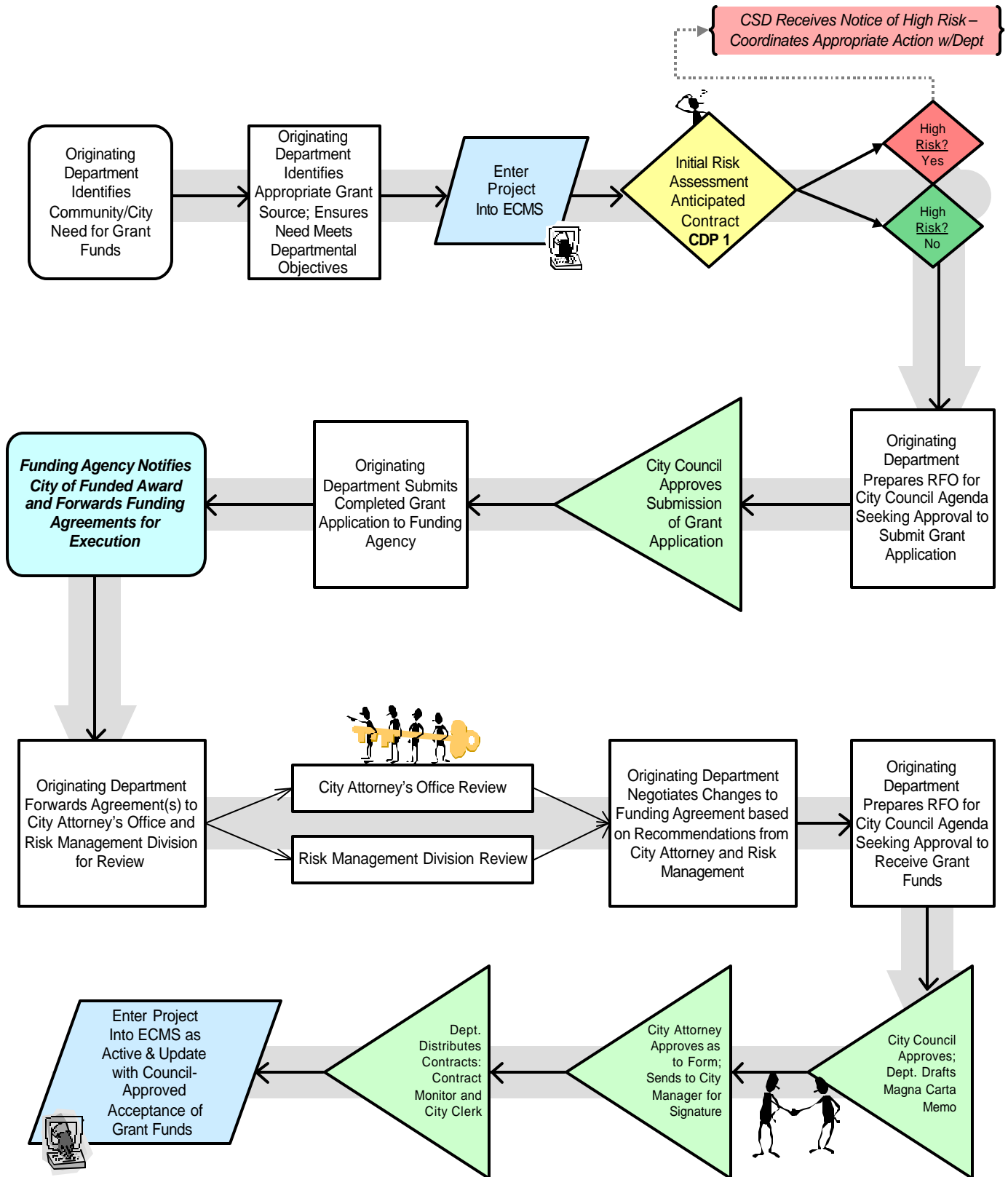
L. City Manager's Office

Sign the approved agreements.

M. Originating Department

- Step 1 Send one signed original of the agreement to the funding source. Send one signed original of the agreement to the City Clerk's Office. Send photocopies of the agreement to the Project Manager/Coordinator and Departmental Contracting Officer.
- Step 2 Update ECMS, changing contract status from *Anticipated* to *Active*. Details for this step are outlined in the [ECMS Operations Manual](#).

APPLICATION & ACCEPTANCE OF GRANT FUNDS: PROCESS STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER.
IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 59-60 FOR COMPLETE INSTRUCTIONS

DEFINITION

Agreements between the City and another entity, in which the City provides funds to the entity to perform a service or function required by the grant either in its entirety or in part. The City may retain a portion of the grant funds for grant administration purposes.

Delegate Agency and Subrecipient Grant Contracts

The following steps should be used when selecting a delegate agency or subrecipient to provide services outlined by a grant funding source. Appropriate departmental authority must be obtained to initiate a Request for Proposal (RFP) to provide the function or service defined by the grant.

Responsible Party

Process Steps

A. Originating Department

- Step 1 Document departmental authority to proceed with development of a Request for Proposals (RFP).
- Step 2 Enter the information pertaining to the project(s) into the Electronic Contract Management System (ECMS) as an *Anticipated* contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the Director of the originating department, and the Asset Management Contract Services Division are notified that the project shall be a candidate for additional review by all coordinating departments and if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the [ECMS Operation Manual](#).
- Note: If the City is to be the provider of the services defined in the grant, refer to "Process Steps for Grant Application and Acceptance of Funds."
- Step 3 Identify and establish members of Evaluation Team, if the City will not be performing the services defined in the Grant Agreement. Select members familiar with the type of service being requested. Include a representative from the Small Business Office of the Economic Development Dept. Include a subject matter expert familiar with the grant agreement to ensure all grant requirements are satisfied; the subject matter expert may serve in an advisory role as a nonvoting member of the Evaluation Team. Recommend having an uneven number of voting members on the Evaluation Team.
- Step 4 Draft a Request for Proposals (RFP). Contact the Department of Asset Management, Contract Services Division for assistance, if necessary.
- Step 5 Forward draft RFP document for review to the City Attorney's Office, Risk Management, Contract Services Division of Asset Management, and Economic Development Dept.
- Step 6 Finalize RFP, incorporating recommendations from City Attorney's Office, Risk Management Dept., Asset Management, and Economic Development Dept.
- Step 7 Advertise RFP.

B. City Clerk's Office	Receive responses to RFP. Forward responses to originating department.
C. Originating Department	
Step 1	Convene Evaluation Team for evaluation of responses to RFP. Review and rate proposals. Invite respondents to conduct presentations and submit to interviews, if necessary.
Step 2	Identify the highest scoring respondent and negotiate or formalize terms and conditions.
Step 3	Present to Management Team and/or City Council committee, if appropriate.
D. City Attorney's Office	Draft contract(s).
E. Originating Department	
Step 1	Acquire signature from delegate agency or subrecipient on two original contracts. Do not date the contracts.
Step 2	Prepare the contract(s) for placement on the City Council agenda by completing a Request for Ordinance (RFO), and a Memorandum to City Council describing the contract(s). For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For City Council Consideration".
F. City Council	Consider the proposed contract(s) and, if approved, authorize the City Manager or designee to execute the agreement(s).
G. Originating Department	After City Council approval, prepare Magna Carta memo (if applicable) and forward original contracts to the City Attorney's Office.
H. City Attorney's Office	Sign the original contracts indicating approval as to form.
I. Originating Department	Send "Magna Carta Memo" and forward with original contracts to City Manager's Office for signature.
J. City Manager's Office	Sign original contracts on behalf of the City and return original contracts to originating department for distribution.
K. Originating Department	Send one signed original contract to contracting party. Send one signed original contract to the City Clerk's Office. Send photocopy of contract to Project Manager/Coordinator and departmental Contracting Officer.

Grants Management

Grants Management is a process to ensure a project/program operates according to the proposed timeline and plan on which the receipt of grant funds is based. Some key points to remember include:

- In seeking grant funds for your department's proposed project/program, consult the *Federal Register*, which lists availability of grants and their funding cycles and can be accessed on-line at http://www.gpo.gov/su_docs/aces/aces140.html

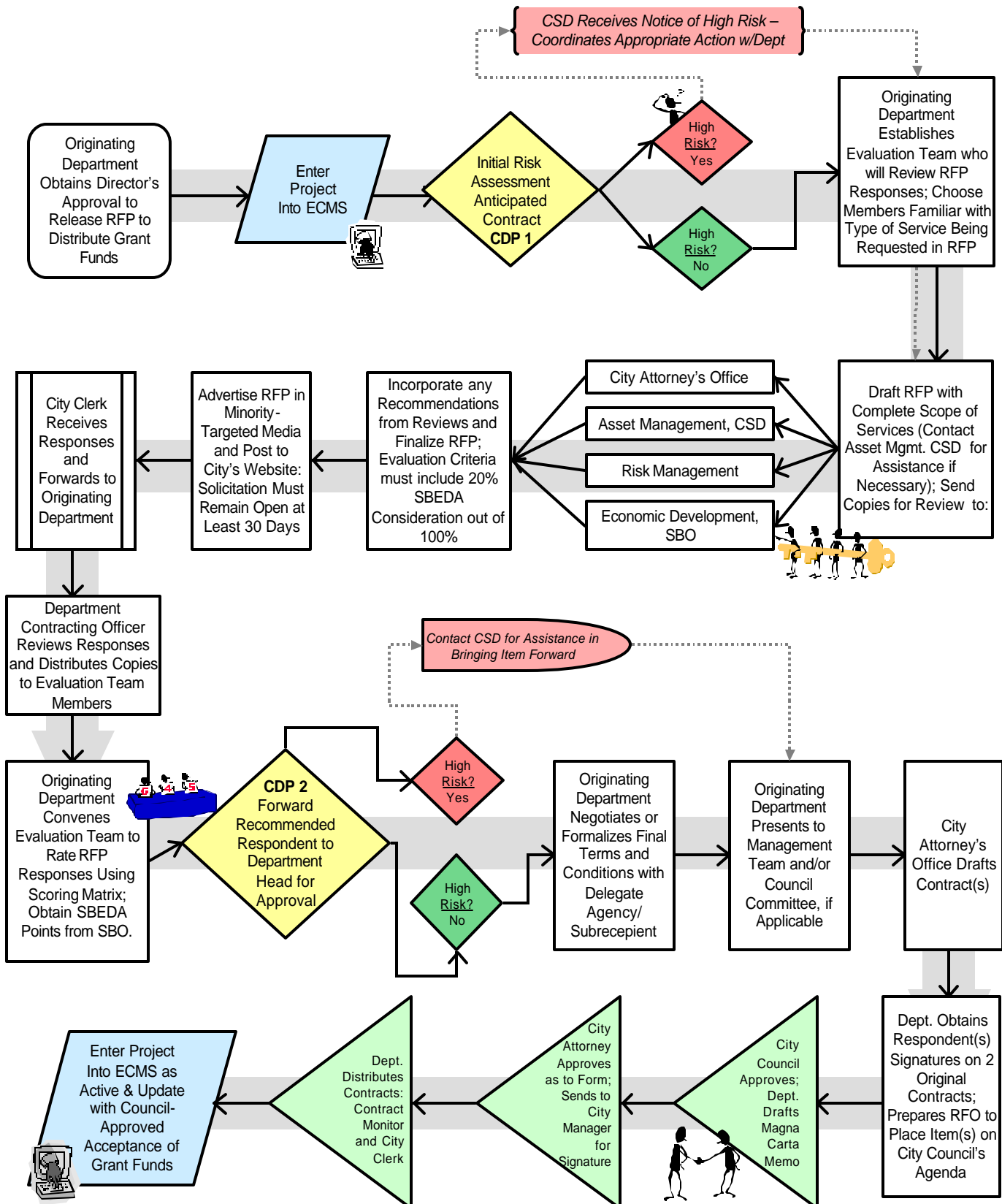
- Upon identifying grant funds that meet your department's goals, prepare a "Request for Ordinance" (RFO) requesting City Council approval for the submission of the grant application. The City Charter (Section 18) requires Council approval prior to any monetary appropriation;

- Prior to receiving grant funds, be sure to develop the auditing and monitoring tools needed by departmental staff in administering the project/program. The Office of Management and Budget (OMB) publishes management policies and guidelines through circulars and common rules. In addition, the City of San Antonio has published a grantsmanship handbook on line at <http://cosaweb/hr/GrantWriting.pdf>.

Avoiding Costly Pitfalls When Using Federal Funds

Will the City be using Federal funds? If so, be aware that the City cannot contract with or make subawards to parties who are suspended or debarred by the Federal government. The prohibition exists even if a principal of the party is suspended or debarred. This rule applies to procurement contracts for goods or services and to all nonprocurement transactions, such as subawards to subrecipients. Contractors and all subrecipients must certify that the organization and its principals are not suspended or debarred. IT IS CITY POLICY that the Contracting Officer verify the certification, by checking the List of Parties Excluded from Federal Procurement and Nonprocurement Programs at <http://epls.arnet.gov/> at the time bids or proposals are received, and again just prior to award. Failure to follow the rules may result in loss of the federal funds, or even suspension or debarment.

DELEGATE AGENCY/SUBRECIPIENT GRANTS: PROCESS STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER.
IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 62-63 FOR COMPLETE INSTRUCTIONS

Leases - City Is Landlord

Prospective Tenants Solicited

In order to acquire tenants for City property, the City may hire a real estate broker or simply post a sign on the premises. When there is a high level of interest in the property to be leased (i.e., Market Square, La Villita, and the Riverwalk), the City may issue a request for proposals as a means to select a tenant. The Department of Asset Management, the City Attorney's Office, and the Economic Development Department assist departments when soliciting Request for Proposals for the lease of City property. All leases, regardless of value, require City Council approval.

Responsible Party

Process Step

A. Originating Department

- | | |
|--------|---|
| Step 1 | Identify City property to be leased. |
| Step 2 | Confirm availability of space or land, ensuring City ownership and ensuring there are no conflicting agreements in place for the property through a review of departmental records, a search on ECMS and an inspection of the property. If there is any question whether the City owns the property, contact Dept. of Asset Management, Administration & Lease Division for assistance, if necessary. |
| Step 3 | Following confirmation of availability of space or land, enter the information pertaining to this project into the Electronic Contract Management (ECMS) as an <i>Anticipated</i> contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Contract Services Division of the Dept. of Asset Management are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual . |
| Step 4 | Draft Request for Proposals. Contact Dept. of Asset Management, Contract Services Division and City Attorney's Office for assistance, if necessary. |

B. City Attorney's Office

Draft lease to be attached to Request for Proposals, and review draft Request for Proposals.

C. Contract Services Division/ Asset Management

Review draft Request for Proposals and draft lease, and provide recommendations to originating Department.

D. Risk Management Division

Review draft Request for Proposals and draft lease, and provide recommendations to originating Department.

DEFINITION

A conveyance of an interest in real estate, usually in consideration of rent, for a period of time, giving rise to the relationship of landlord and tenant. The City may be either the landlord or the tenant.

Determining Financial Stability

The following methods may be used to help determine a tenant's, or property owner's, financial stability prior to entering into a lease agreement:

- Obtain credit report on officers or principals;
- Contact Better Business Bureau;
- Search ECMS for other City departments doing business with same firm and determine level of performance;
- Request a statement of credit worthiness from firm's bank;
- Require submission of financial statements compiled by a Certified Public Accountant (CPA), if lease value is significant;
- Check if firm is suspended or debarred from doing business with federal government at <http://epls.arnet.gov>

E. Economic Development Dept.

Review draft Request for Proposals and draft lease, and provide recommendations to originating Department.

F. Originating Department

- Step 1 Establish an Evaluation Team to review and rate the responses to the Request for Proposal. Include persons familiar with the property to be leased and persons experienced with similar leases, as well as a representative from the Small Business Office of the Economic Development Dept. If required by City ordinance, administrative directive, or department policy, include advisory board/commission members on Evaluation Team. (Recommend having an uneven number of voting members on the Evaluation Team). Meet with Evaluation Team members to review their responsibilities, to ensure no conflict of interest exists, and to sign a Code of Conduct Statement.
- Step 2 Finalize Request for Proposal by incorporating recommendations from Asset Management, City Attorney's Office, and Economic Development Dept. (Evaluation criteria must include 20% consideration for SBEDA requirements. Additional evaluation criteria may include financial stability, experience, management plan, price, and responsiveness to proposal. Clearly identify all evaluation criteria within RFP. Recommend evaluation be based on a maximum possible score of 100 points).
- Step 3 Advertise Request for Proposal. Request for Proposal must be advertised in "minority-targeted media no less than 30 days" before responses are due. Request for Proposal may also be posted to the City's website and provided to the Small Business Office of the Economic Development Dept. for posting on "bid board."

G. City Clerk's Office

Receive responses to Request for Proposal. Forward responses to department.

H. Originating Department

- Step 1 Convene Evaluation Team for evaluation of responses to Request for Proposal. If Economic Development Dept. representative unable to attend, send proposals for their review and rating. Collect information and/or conduct interviews with respondents, if necessary. Identify the highest scoring, prospective tenant and forward recommendation to department head for endorsement.

H. Originating Department

- Step 2 Acquire signature from prospective tenant on two original leases.
- Step 3 Acquire signed Discretionary Contracts Disclosure form from tenant, if not provided as part of proposal.
- Step 4 Prepare the lease for placement on the City Council agenda for its consideration by completing a Request for Ordinance (RFO) and a Memorandum to City Council, including evaluation matrix as attachment. Schedule for City Council. For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For City Council Consideration".

I. City Council

Consider the proposed lease and, if approved, authorize the City Manager or designee to execute agreement.

J. Originating Department

Draft Magna Carta memo (if applicable) and forward with original leases to the City Attorney's Office.

K. City Attorney's Office

Reviews and signs original leases, indicating approval as to form, and return to originating department.

L. Originating Department

Sends Magna Carta memo (if applicable) and original leases to City Manager's Office for signature.

M. City Manager's Office

Sign original leases and return to originating department for distribution.

N. Originating Department

- Step 1 Send one signed original lease to tenant. Send one signed original lease to the City Clerk's Office. Send photocopies to the project manager/coordinator and departmental contracting officer. **The originating department should not retain an original lease.**
- Step 2 Update ECMS. Revise contract status from *Anticipated* to *Active*. Details for this step are outlined in the [ECMS Operation Manual](#).

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include "sunset provision" within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

Determining Financial Stability

The following methods may be used to help determine a tenant's, or property owner's, financial stability prior to entering into a lease agreement:

- Obtain credit report on officers or principals;
- Contact Better Business Bureau;
- Search ECMS for other City departments doing business with same firm and determine level of performance;
- Request a statement of credit worthiness from firm's bank;
- Require submission of financial statements compiled by a Certified Public Accountant (CPA), if lease value is significant;
- Check if firm is suspended or debarred from doing business with federal government (<http://epls.arnet.gov>)

Leases - City Is Landlord Contacted by Prospective Tenant

Prospective tenants often contact the City regarding the lease of City property. The City may use a third party when leasing property to tenants, or it may assume this responsibility itself. Both the Department of Asset Management and the City Attorney's Office can provide departments with assistance at different points during the lease process. All leases regardless of value, require City Council approval.

<u>Responsible Party</u>	<u>Process Step</u>
A. Prospective Tenant	Contact City department regarding lease of City property.
B. Originating Department	
Step 1	Confirm availability of space or land, ensuring City ownership and ensuring there are no conflicting agreements in place for the property through a review of departmental records, a search on ECMS and an inspection of the property. If there is any question whether the City owns the property, contact Dept. of Asset Management, Administration & Lease Division for assistance, if necessary.
Step 2	Following confirmation of availability of space or land, enter the information pertaining to this project into the Electronic Contract Management System (ECMS) as an <i>Anticipated</i> contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Dept. of Asset Management/Contract Services Division are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual .
Step 3	Assess financial stability and credit worthiness of prospective tenant. Notify Asset Management of potential lease.
C. Asset Management	
Step 1	Assist in determining appropriate rental rate.
Step 2	Assist in determining key business points of lease.
D. Originating Department	Draft lease utilizing standard lease agreement.

E. Asset Management	Review lease. Provide recommendations to originating department.
F. Risk Management Division	Review lease. Provide recommendations to originating department.
G. City Attorney's Office	Review lease. Provide recommendations to originating department.
H. Originating Department	<p>Step 1 Modify lease based on recommendations, if applicable.</p> <p>Step 2 Review lease for accuracy and completeness.</p> <p>Step 3 Present lease to oversight committee, if applicable.</p> <p>Step 4 Acquire signature from prospective tenant on two original leases.</p> <p>Step 5 Acquire signed Discretionary Contracts Disclosure form from tenant.</p> <p>Step 6 Prepare the lease for placement on the City Council agenda for its consideration by completing a Request for Ordinance (RFO) and a Memorandum to City Council. For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For City Council Consideration".</p>
I. City Council	Consider proposed lease and, if approved, authorize City Manager or designee to execute the agreement.
J. Originating Department	Draft Magna Carta memo (if applicable) and forward with original leases to the City Attorney's Office.
K. City Attorney's Office	Review and sign original leases, indicating approval as to form, and return to originating department.
L. Originating Department	Send Magna Carta memo (if applicable) and original leases to City Manager's Office for signature.
M. City Manager's Office	Sign original leases and return to originating department for distribution.
N. Originating Department	<p>Step 1 Send one signed original lease to tenant. Send one signed original lease to the City Clerk's Office. Send photocopies to the project manager/coordinator and departmental contracting officer. <u>The originating department should not retain an original lease.</u></p> <p>Step 2 Update ECMS. Revise contract status from <i>Anticipated</i> to <i>Active</i>. Details for this step are outlined in the ECMS Operation Manual.</p>

Policy Directive

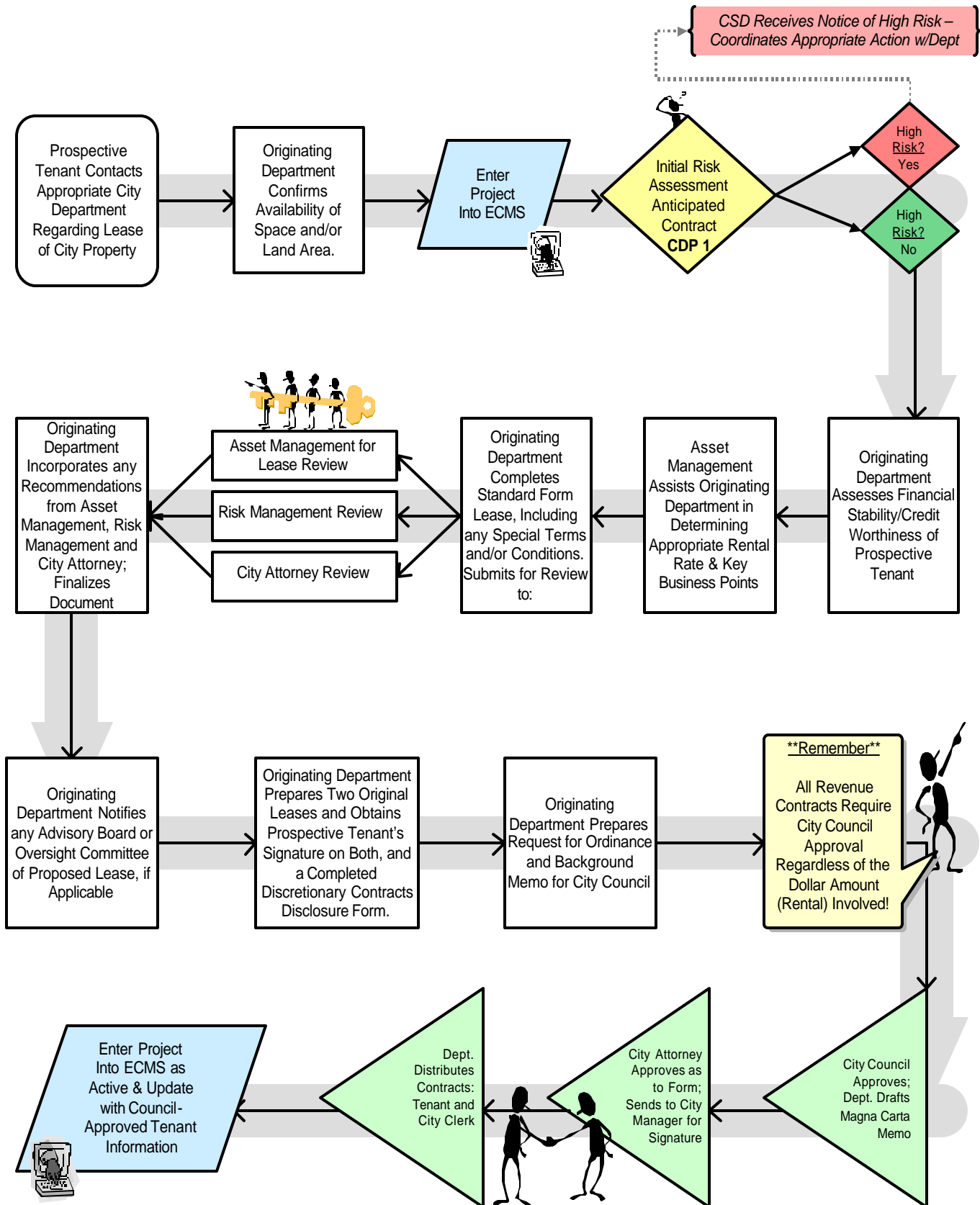
In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include "sunset provision" within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

LEASES – CITY IS LANDLORD: PROCESS STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 68-69 FOR COMPLETE INSTRUCTIONS

Leases - City is Tenant

The following steps should be used when the City wishes to lease real property from an external entity.

Responsible Party

Process Step

A. Originating Department

- Step 1 Identify need for a lease of space. Ensure budgeted funds are available for the expenditure.
- Step 2 Enter the information pertaining to this project into the Electronic Contract Management System (ECMS) as an *Anticipated* contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Dept. of Asset Management/Contract Services Division are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the [ECMS Operation Manual](#).
- Step 3 Contact Dept. of Asset Management or City Architect's office for assistance with space utilization/programming to determine size of requirement.

B. Asset Management

- Step 1 Conduct space search to identify possible lease sites if originating department has not identified a preferred location.
- Step 2 Negotiate terms of lease in conjunction with originating department and City Attorney's Office.

C. City Attorney's Office

Draft lease and forward to originating department.

Note: Preferred method is for City to generate lease agreement; however, when property owner will not agree, City Attorney's Office can review property owner's lease and identify necessary modifications.

D. Originating Department

Forward lease for review to Risk Management and Dept. of Asset Management.

E. Risk Management Division/ Office of Management & Budget

Review lease. Provide recommendations to originating department.

F. Asset Management

Review lease. Provide recommendations to originating department.

Determining Financial Stability

The following methods may be used to help determine a property owner's financial stability prior to entering into a lease agreement:

- Obtain credit report on officers or principals;
- Contact Better Business Bureau;
- Search ECMS for other City departments doing business with same firm and determine level of performance;
- Request a statement of credit worthiness from firm's bank;
- Require submission of financial statements compiled by a Certified Public Accountant (CPA), if lease value is significant;
- Check if firm is suspended or debarred from doing business with federal government (<http://epls.arnet.gov>)

Compare The Deal

When the City is leasing space from a property owner, be sure to consider more than only the square foot rental rate. A deal at \$1.20 per square foot (psf) may look better than \$1.30 psf, but once you consider additional costs for janitorial services and utilities, the original deal may not be more affordable.

Obligating The City

Be careful when the City is a tenant to clearly define responsibilities for improvements to space. All improvements to be paid by the City must be approved in advance. Also, leases which require the City to "repair and maintain" the premises could obligate the City to significant, unbudgeted expenses. For example, replacement of an air conditioning unit. Watch out for language such as this when reviewing leases.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include "sunset provision" within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

G. Originating Department

- Step 1 Modify lease based on recommendations, if applicable.
- Step 2 Review lease for accuracy and completeness.
- Step 3 Present lease to oversight committee, if applicable.
- Step 4 Acquire property owner signature on two original leases.
- Step 5 Acquire signed Discretionary Contracts Disclosure Form from property owner.
- Step 6 Prepare the lease for placement on the City Council agenda for its consideration by completing a Request for Ordinance (RFO) and a memorandum to City Council. For assistance, refer to Chapter 4, Section 18 "Preparing A Contract For City Council Consideration".

H. City Council

Consider proposed lease and, if approved, authorize City Manager or designee to execute the agreement.

I. Originating Department

Draft Magna Carta memo (if applicable) and forward with original leases to the City Attorney's Office.

J. City Attorney's Office

Review and sign original leases, indicating approval as to form and return to originating department.

K. Originating Department

Send Magna Carta memo (if applicable) and original leases to City Manager's Office for signature.

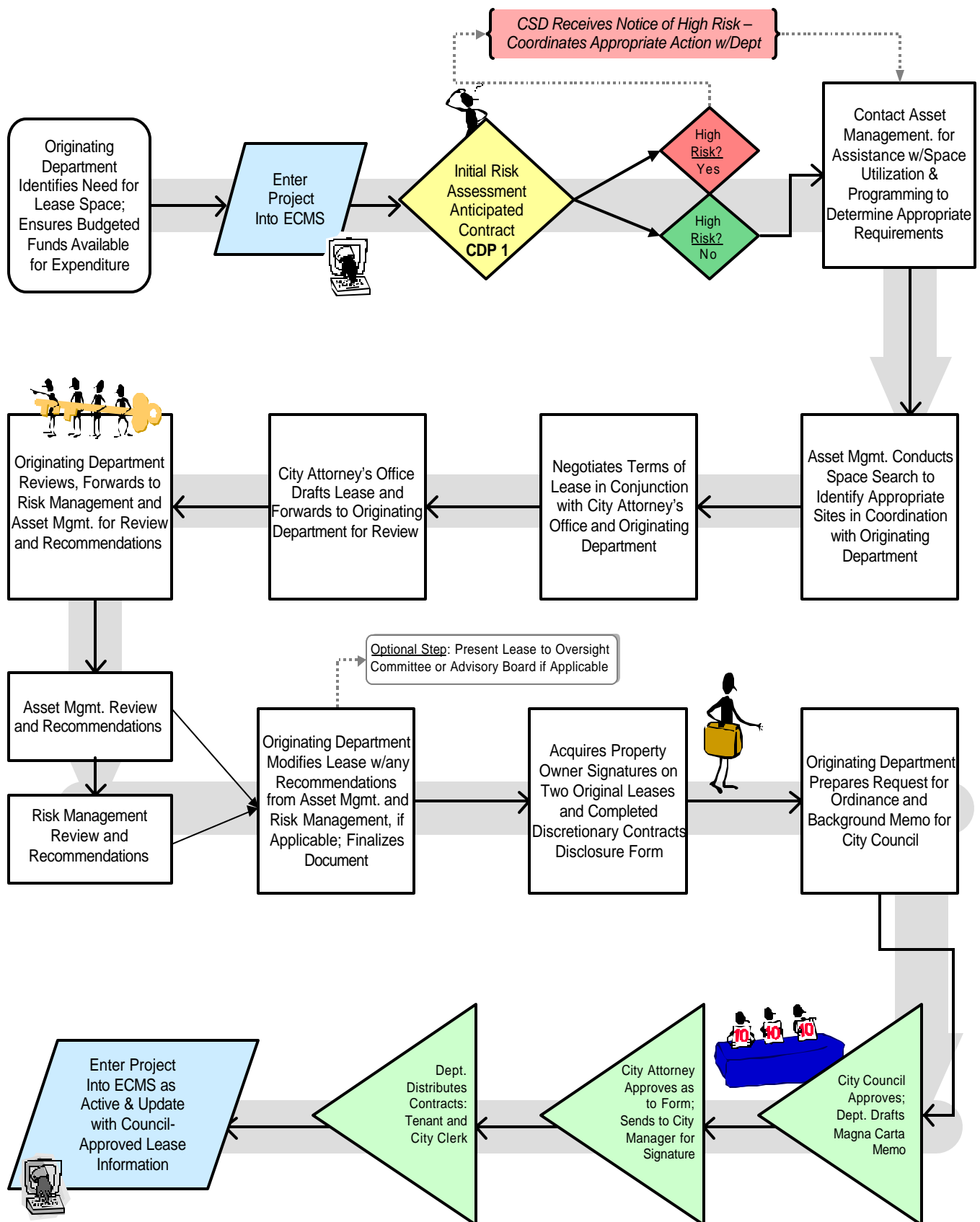
L. City Manager's Office

Sign original leases and return to originating department for distribution.

M. Originating Department

- Step 1 Send one signed original lease to property owner. Send one signed original lease to the City Clerk's Office. Send photocopies to the project manager/coordinator and departmental contracting officer. **The originating department should not retain an original contract.**
- Step 2 Update ECMS. Revise contract status from *Anticipated* to *Active*. Details for this step are outlined in the [ECMS Operation Manual](#).

LEASES – CITY IS TENANT: PROCESS STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 71-72 FOR COMPLETE INSTRUCTIONS

DEFINITION

An agreement granting permission to use City owned or controlled real property, including the Public Right of Way, in exchange for a fee.

License - Real Estate Contracts

The following steps are procedures that should be used for the development of a Real Estate License Agreement. It is recommended that you confer with the City Attorney's Office when beginning the process for developing a License Agreement, real estate or otherwise. License Agreements may be initiated through the Parks and Recreation Department or the Department of Asset Management Property Disposition Division.

<u>Responsible Party</u>	<u>Process Steps</u>
A. Petitioner/Potential Licensee	
Step 1	Contact the appropriate City of San Antonio department to request issuance of a new license agreement or renewal of an existing license agreement. (City may initiate contact for renewal of license agreements).
Step 2	Request use of City-owned or City-controlled property by submitting a formal request to the appropriate City department.
Note:	To request a license agreement for the purpose of accessing a Public Right of Way, petitioner/potential licensee must submit a letter that identifies the purpose, location, and nature of the proposed use.
B. Originating Department	
OPTIONAL STEP:	Collect a nonrefundable processing fee payable to City if authorized to do so by ordinance. <u>Note:</u> The nonrefundable processing fee for each license to use Public Right of Way is five hundred dollars (\$500.00).
OPTIONAL STEP:	Obtain a credit report on petitioner/potential licensee, if applicable or warranted.
Step 1	Notify appropriate City Council member(s) of pending real estate license request. If applicable, City staff canvasses internal departments and external agencies for review authorization to proceed. Staff provides informal notice to applicable advisory board or commission.
OPTIONAL STEP:	Canvass internal departments and external agencies.
OPTIONAL STEP:	Provide notice of upcoming real estate license agreement to applicable board or commission.
OPTIONAL STEP:	Notifies petitioner/potential licensee by letter the canvassing process has begun.
OPTIONAL STEP:	Draft letter of agreement for petitioner/potential licensee signature, including business points and sunset provision.

B. Originating Department

- Step 2 Request the City Attorney's Office to draft appropriate license agreement

C. City Attorney's Office

- Step 1 Prepare license agreement.
- OPTIONAL STEP: Prepare memorandum of license agreement to be recorded at County Clerk Deed and Records Office.

D. Originating Department

- Step 1 Obtain petitioner/potential licensee signature on two original license agreements and discretionary contract disclosure form.
- OPTIONAL STEP: Obtain executed and notarized memorandum of license agreement.
- Step 2 Present license agreement to applicable board, if any.
- Step 3 Prepare the License Agreement for placement on the City Council agenda for its consideration by completing a Request for Ordinance (RFO), and a memorandum to City Council. (For assistance, refer to Chapter 4 Section 18, "Preparing a Contract for Council Consideration").
- OPTIONAL STEP: Collect license fee prior to City Council consideration.

E. City Council

Consider the proposed license agreement and, if approved, authorize the City Manager or designee to execute the license agreement.

F. Originating Department

- Step 1 Prepare Magna Carta Memo.
- Step 2 Obtain City Attorney signature on license agreements.
- Step 3 Forward Magna Carta Memo and license agreements to the City Manager's Office for Signature.

G. City Manager's Office

Sign original license agreement and return to originating department for distribution.

H. Originating Department

- Step 1 File memorandum of license agreement at County Clerk Deed and Records Office.
- OPTIONAL STEP: Send one, signed original license agreement to petitioner and one, signed original license agreement to City Clerk's Office. Send photocopies to project manager and departmental contracting officer.
- Step 2 Enter information pertaining to the license agreement into the Electronic Management System (ECMS) as an *Active* record.
- OPTIONAL STEP: Conduct a customer survey.

Public Right of Way Defined

Public right of way is defined as any public street, traffic easement, road lane, path, place, alley, sidewalk, median, boulevard, parkway, or drive, including drainage, whether used by easement or owned in fee by the City, whether improved or unimproved.

Pipelines

City staff is authorized to negotiate the license fee for any pipeline in public right of way.

Real Estate Licenses

Real estate license agreements are commonly granted for surface, subsurface and air right encroachments in public right of way such as basements, balconies, overhead passageways, tunnels, overhead lines, emergency generators and signs.

License Agreements: The Law

Policies regarding license agreements to use public right of way have been incorporated in Article IV, Division 8, Section 29-190 of the City Code.

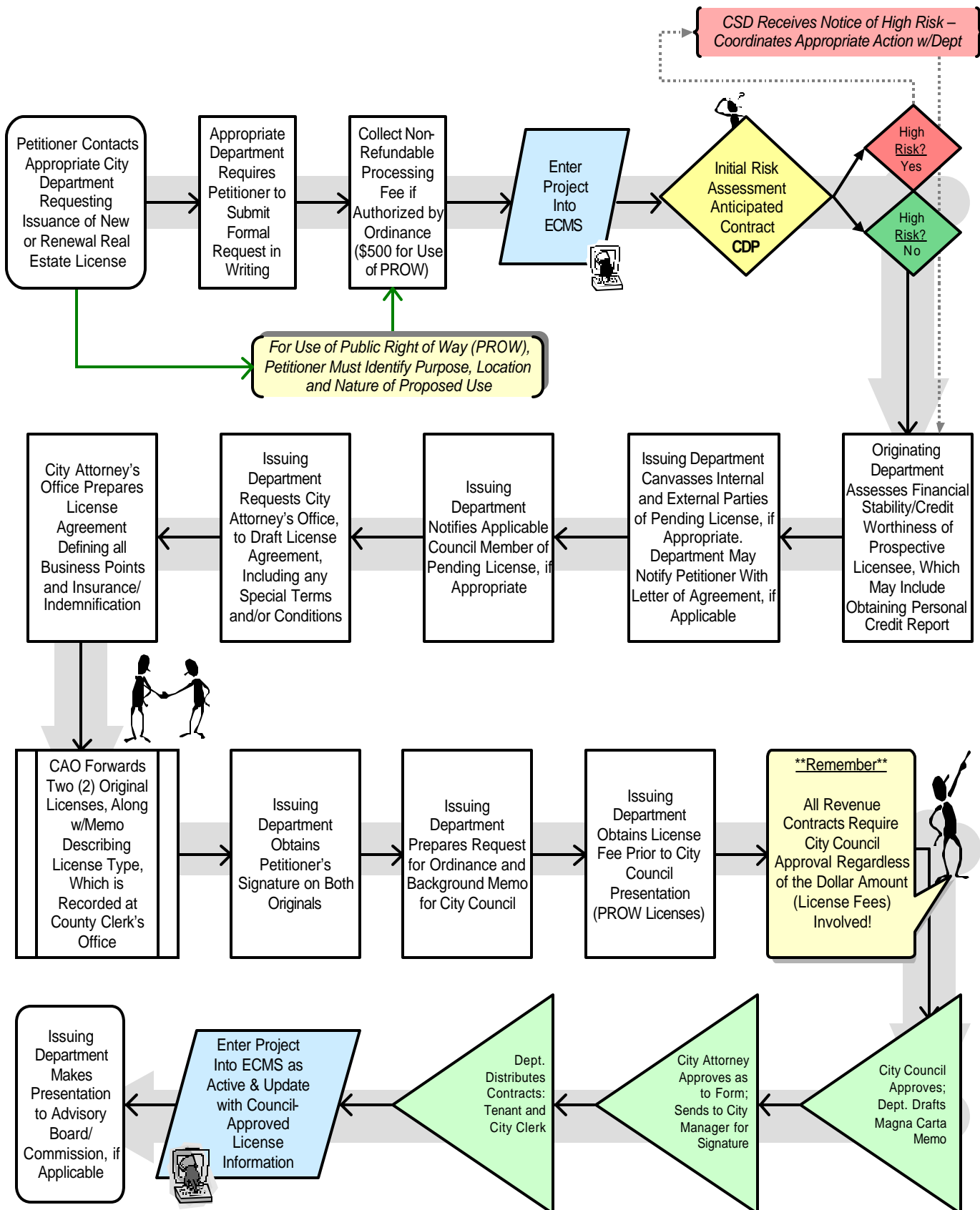
Processing Fee

The \$500 non-refundable processing fee includes the creation of canvassing packet with pictures and maps, the canvassing of the request to all interested City departments, public utilities and agencies, and upon approval, presentation of the request to the Planning Commission and City Council.

Fiber Optics

License agreements for the installation of fiber optic conduits in public right of way by telecommunication providers are authorized under a fiber optic license agreement, except when installed by a certificated telecommunications provider (CTP) under Chapter 283 of the Local Government Code, which provides for an access line fee for the use of public right of way.

REAL ESTATE LICENSE PROCESS STEPS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 74-75 FOR COMPLETE INSTRUCTIONS

License - City Owned Intellectual Property

The following steps are procedures that should be used for the development of an Intellectual Property Agreement . It is recommended that you confer with the City Attorney's Office when contracting for Intellectual Property License Agreements, real estate or otherwise.

<u>Responsible Party</u>	<u>Process Steps</u>
A. Petitioner/Potential Licensee	Contacts the appropriate City Department to request a license for use of a desired Intellectual Property (i.e., photographs, art work, architectural drawings, trademarks, trade dress and other proprietary items).
B. Originating Department	Reviews the request and contacts the City Attorney's office to draft a standard Intellectual Property License Agreement.
C. City Attorney's Office	Prepares the standard Intellectual Property License Agreement and forwards (2) originals to the originating department for review and submission to Petitioner/Potential Licensee for review and signature.
D. Petitioner/Potential Licensee	Reviews drafted Intellectual Property License Agreement, if no changes are required, signs the agreement and returns to the Originating Department for counter-signature. If changes are necessary, contacts Originating Department to modify agreement accordingly.
E. Originating Department and City Attorney's Office	Reviews requested changes with the City Attorney's Office; City Attorney's Office makes appropriate modifications to the Agreement and forwards changed Agreement to the Originating Department.
F. Originating Department	Forwards revised document to Petitioner/Potential Licensee for review and signature.
G. Petitioner/Potential Licensee	Signs revised Intellectual Property License Agreement and returns to the Originating Department for counter-signature and distribution of copies. Copies are distributed as follows: (1) original City Attorney's Office, (1) original returned to the Petitioner/Potential Licensee. Originating Department maintains a copy for the department's file.
H. Originating Department	Enter information pertaining to the Intellectual Property License Agreement into the Electronic Contract Management System (ECMS) as an <i>Active</i> record.

DEFINITION

An agreement allowing one entity to use the intellectual property of another entity, usually in exchange for a fee.

Either the City or the other entity may be the one granting the license. An example would be an agreement allowing the City to use the image of a mural painted on a City building on T-shirts for sale in the City Store.

**Departmental Authority
City Requests Use of
Intellectual Property**

Department Heads or designees may execute Intellectual Property Agreements with prior written approval from City Council designated by adopted Ordinance

License - City Requests Use Of Intellectual Property

The following steps are procedures that should be used for the development of an Intellectual Property Agreement. It is recommended that you confer with the City Attorney's Office when contracting for Intellectual Property License Agreements.

Responsible Party**Process Steps****A. Originating Department**

- Step 1 Contacts owner of the Intellectual Property City desires to use. Explains purpose for request.
- Step 2 Prepares a written request to the owner of the Intellectual Property formally requesting its use.

B. Respondent

Provides written or oral authorization to the Originating Department granting permission to use the requested Intellectual Property

C. Originating Department

- Step 1 If granted permission is written, forward original copy to the City Attorney's Office and maintain (1) copy in the department's file. If granted permission is oral, note on the original letter requesting permission to use the Intellectual Property, the name of person granting permission, date, time, and terms of the Agreement. Make (1) copy and forward to the City Attorney's Office. Maintain original for the department's files.
- Step 2 Enters information pertaining to the Intellectual Property License Agreement into the Electronic Contract Management System (ECMS) as an *Active* record.

License - City Commissions

Intellectual Property

The following steps are procedures that should be used for the development of an Intellectual Property Agreement . It is recommended that you confer with the City Attorney's Office when commissioning intellectual property.

Responsible Party

Process Steps

A. Originating Department

Selects an Independent Contractor to develop a product for the City (i.e. photography, art work, architectural drawings, logos, or other potential proprietary objects).

B. City Attorney's Office

Contacts the City Attorney's Office for development of an "Assignment Form" granting proprietary rights to the City when product is finished.

C. Originating Department

Step 1 Drafts the "Assignment Form" and forwards (2) originals to the originating department for submission to the Independent Contractor for signature.

Step 2 Obtains Independent Contractor's signature on both "Assignment Form" releasing all rights to the finished product developed for the City. Forwards (1) original to the City Attorney's Office, (1) original to the Independent Contractor, and maintains a copy for the department's file.

Step 3 Grants written or oral approval to the Independent Contractor to begin the work requested.

Step 4 Enters information pertaining to the Intellectual Property License Agreement into the Electronic Contract Management System (ECMS) as an *Active* record.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include "sunset provision" within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

DEFINITION

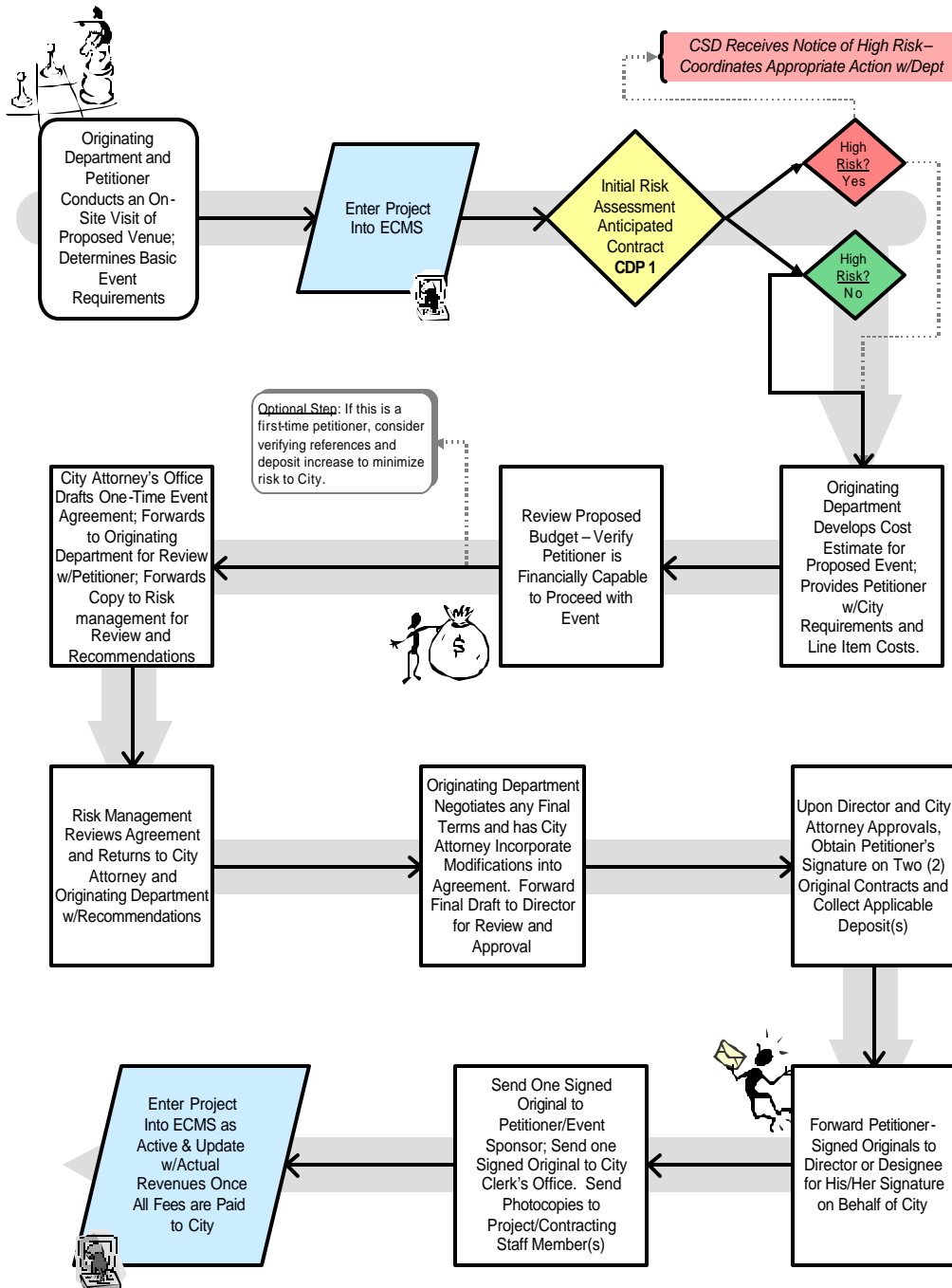
An agreement between the City and another party for the use of City property for a special event. This is a type of license.

One Time Events

The following steps should be used for the development of a One-time Event Agreement. It is necessary to coordinate with the City Attorney's Office and Risk Management when developing contracts for One-Time Events.

<u>Responsible Party</u>	<u>Process Steps</u>
A. Originating Department	
Step 1	Conduct an on-site visit of the proposed venue. Determine basic requirements (e.g., seating, audio-visual requirements, technical operators, props, security, etc.).
Step 2	Enter the information pertaining to this project into the Electronic Contract Management (ECMS) as an <i>Anticipated</i> contract record. The entry of the record to ECMS includes a risk assessment of the proposed agreement. In the event that the proposed agreement is identified as "high risk," the director of the originating department and the Contract Services Division of the Dept. of Asset Management are notified that the project is a candidate for additional review by all coordinating departments and, if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual .
Step 3	Develop a cost estimate to conduct the proposed event. Provide customer with City requirements and line item expenses associated with one-time events that are held in the selected venue.
Step 4	Review proposed budget and verify the customer is financially capable to proceed. If this is a first-time customer, it may be necessary to confirm references, and increase deposit fees to minimize the City's risk.
B. City Attorney's Office	Draft One-Time Event Agreement, forward to originating department with recommendations.
C. Risk Management	Review agreement, forward to originating department with recommendations.
D. Originating Department	
Step 1	Negotiate the terms if necessary. Forward the final modifications to the originating department director and the City Attorney's Office.
Step 2	Acquire contracting party's signature on two original contracts, and collect the deposit.
Step 3	Forward the signed originals to the department director or designee for signature on behalf of the City.
Step 4	Send one signed original of contract to contracting party. Send one signed original to the City Clerk's Office. Send photocopies to the project manager/coordinator and departmental contracting officer. <u>The originating department should not retain an original contract.</u>
Step 5	Update ECMS, changing contract status from <i>Anticipated</i> to <i>Active</i> . Details for this step are outlined in the ECMS Operation Manual .

ONE TIME EVENTS: PROCESS STEPS



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New Agreement vs. Facility/Venue Rental Established by Code

Many of the City's entertainment and/or gathering venues have rental fees and usage policies set by ordinance, and several of the applicable departments have standard form agreements for use in executing many different types of "One Time Events." To determine if the "One Time Event" project currently under review is codified, click on the City's municipal code on-line at <http://www.sanantonio.gov/codesrch.asp>. Codified rental and usage fees for City facilities/venues include the departments of:

- Alamodome
- Asset Management – International Conference Center
- Convention Facilities, including Municipal Auditorium
- Library – Meeting and Conference Rooms
- Parks & Recreation – Tourist Facilities, Sunken Garden Theater and Park Pavilions

For Some Events, Everything Comes Up T.U.L.I.P.s!

The City requires general liability insurance in all of its business contracts, including the rental of City facilities/venues for "One Time Events." Many individuals and/or organizations that seek to hold a fundraising event, art show, etc., work on these events as volunteers and do not hold general liability policies. To minimize risk to City facilities/venues and to make general liability insurance affordable to these users, the City brokers a program entitled **Tenant-Users Liability Insurance Program**. Housed in the Risk Management Division, the program offers daily, weekly and/or monthly general liability insurance coverage a user may purchase for the proposed event. The cost of the insurance coverage is based on the category of event (e.g., flower show or concert) and estimated attendance, and coverage begins the moment the City receives payment for a **T.U.L.I.P.**!

DEFINITION

Capital Projects specific to the San Antonio park system, related to newly-acquired parks and improvements/development to existing City parks

Park Project Services Contracts

Architectural, Landscape Architectural, & Engineering Services

All architectural, landscape architectural and engineering service contracts must use a "two step" procurement process of first determining the most competent and qualified firm, and then negotiating a fair and reasonable price.

The following steps apply to architectural and engineering service contracts greater than \$25,000 and/or bond funded.

Architectural, landscape architectural and engineering services less than \$25,000 (and non-bond funded), may utilize the following steps, if desired; however, City Council approval, application of SBEDA scoring criteria, and advertising the requirement are not mandatory. Alternate methods of determining a firm's competence and qualifications prior to selection and price negotiation include contact by telephone, e-mail, fax, or mail.

<u>Responsible Party</u>	<u>Process Steps</u>
A. Park Project Services	
Office/PARD	Step 1 Identify need to secure architectural and/or engineering services.
	Step 2 Obtain funding for project through budgeting process.
	Step 3 Enter project information into the Electronic Contract Management System (ECMS) as <i>Anticipated</i> . Details for this step are outlined in the ECMS operation manual.
	Step 4 Develop project description, scope of services, and time schedule.
	Step 5 Submit memo SAMPLE to Capital Programs Division/Public Works Department requesting issuance of Request for Qualifications (RFQ). This step should occur in the fiscal year the funds have been allocated.
B. Capital Programs	
Division/Public Works	
	Step 1 Develop RFQ.
	Step 2 Post RFQ on City's website and send e-mail notification to architects/engineers advising them of RFQ.
	Step 3 Receive responses to RFQ and review for completeness.
	Step 4 Forward all complete responses to RFQ to Park Projects Office.
C. Park Project Office	
	Step 1 Distribute rating forms and responses to RFQ to designated Evaluation Team members.
	Step 2 Establish schedule for review of responses to RFQ, and notify Evaluation Team members of due date for rating forms.
	Step 3 Collect completed rating forms and prepare overall ratings.
	Step 4 Conduct interviews with highest rated firms, if necessary.
	Step 5 Send memo with ratings to Capital Programs Division, requesting meeting with Public Works Director's Architectural and Engineering (A & E) Committee for selection of firm.

D. Capital Programs Division/Public Works	Facilitate A & E Committee meeting to select architecture firm.
E. Park Project Office	
Step 1	Attend A&E Committee meeting and present recommended consultant for approval.
Step 2	Negotiate scope of services, fee, and schedule with architecture and/or engineering firm.
Step 3	Obtain final negotiated proposal from recommended architecture and/or engineering firm.
Step 4	Send memo with final proposal to Capital Programs Division/Public Works Department requesting draft contract.
F. Capital Programs Division/Public Works	Draft standard contract. Any deviation from standard contract developed by City Attorney's Office requires City Attorney's Office approval.
G. Park Project Office	Review draft contract. Recommend revisions or approve contract as written.
H. Capital Programs Division/Public Works	Obtain signature on contract from architecture and/or engineering firm.
I. Park Project Services Office/PARD	Prepare ordinance in coordination with the City Attorney's Office.
J. Director's Office/PARD	
Step 1	Review ordinance. Recommend revisions or approve ordinance as written.
Step 2	Schedule ordinance for City Council consideration.
K. City Council	Consider ordinance.
L. Capital Programs Division/Public Works	
Step 1	Obtain insurance certificates and bonds from architecture and/or engineering firm. Submit insurance certificate to Risk Management Division.
Step 2	Obtain signatures on contract from Public Works Director and City Manager.
Step 3	Forward copies of contract to Park Project Services Office.
Step 4	Distribute original contract to City Clerk's Office.
M. Risk Management Division	Review insurance certificate and advise Capital Programs Division of its acceptability or its deficiencies.
N. Park Project Office	
Step 1	Provide copies of executed contract to architecture and/or engineering firm and appropriate staff within PARD.
Step 2	Authorize architecture and/or engineering firm to begin work in accordance with contract schedule.
Step 3	Update ECMS, changing contract status from <i>Anticipated</i> to <i>Active</i> .
Step 4	Complete Performance Evaluation Form upon conclusion of architectural and/or engineering services (sample).

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

DEFINITION

An agreement between the City and another party for a specific person to perform a specific service. A personal service involves the work performed by a particular person rather than a salable product of his skill. Examples include artists, musicians, storytellers, and construction managers.

Personal Services Contracts

Personal services are those involving the skills of another particular individual. When contemplating entering into a Personal Services contract, the contracting officer should ask whether (s)he is seeking the unique abilities of the individual in question. The issue to be considered is not whether the services are professional or nonprofessional in nature, but whether the unique abilities of the particular person in question are required.

Personal service contracts are exempt from the competitive bidding requirements stated in the Local Government Code Chapter 252. Personal service contracts are also not subject to the rules governing procurement of professional services stated in the Government Code Chapter 2254. As such, if the contracting officer is contemplating hiring a professional listed in Chapter 2254, (i.e., accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, and nursing), (s)he should consider the service to be professional, rather than personal.

Despite the fact that there are no state statutes governing selection in personal service contracts, consideration should still be given as to whether conducting a solicitation process would benefit the City. For example, if choosing an artist to paint the Mayor's portrait, a Request for Proposals may provide the opportunity to discover new artists, which artists are interested in the project, and learn their fees and availability.

The same solicitation process used for professional services may be used for personal services. Price may be a factor in the selection of personal services and there are no restrictions on indemnification.

As a reminder, all contracts that require expenditures of more than \$25,000 must be approved by City Council.

Professional Services

The following steps should be used for the development of a professional services contract for projects over \$25,000.00. This section does not apply to land surveyors, architectural, landscape architectural, outside legal services and bond counsel or engineering services contracts; please see Chapter 4 sections 2, 7 and 13 for instructions regarding architectural, landscape architectural and engineering services.

Reminder: Professional service vendors must be selected based on demonstrated competence and qualifications at a fair and reasonable price; however, price may be considered in award of the contract. The award of a professional services contract cannot be based on price alone.

Responsible Party

Process Step

A. Originating Department

- Step 1 Identify the need to secure professional services. Fully define the scope of services.
- Step 2 Confirm availability of funds with the Office of Management and Budget.
- Step 3 Enter the information pertaining to this project into the Electronic Contract Management System (ECMS) as an *Anticipated* contract record. The entry of the record to ECMS includes a four-question risk assessment of the proposed contract. In the event that one or more questions receive a "yes" answer, the director of the originating department and the Asset Management, Contract Services Division are notified that the project is a candidate for additional thorough review by all coordinating departments and if appropriate, additional actions including a Management Team Review. Details for this step are outlined in the ECMS Operation Manual.
- Step 4 Draft request for proposal/qualifications (RFP/Q). Refer to RFP template for professional services or contact Contract Services Division (CSD) for assistance.
- Step 5 Send copies of the draft RFP/Q to Asset Management/ CSD, Risk Management, City Attorney's Office and Economic Development Department's Small Business Office for review.

B. Contract Services Division/ Asset Management

Review draft RFP/Q for form, content and appropriateness. Return to originating department with applicable recommendations.

C. Risk Management

Review draft RFP/Q's to ensure appropriate insurance coverage limits are included based upon scope of services. Return to originating department with recommendations.

D. City Attorney's Office

Review draft RFP/Q for form, content, appropriateness and correct application of the law. Return to originating department with applicable revisions and recommendations.

DEFINITION

An agreement between the City and another party to perform a service. The other party meets the definition of a professional contained in Government Code Chapter 2254, or otherwise qualifies as a professional. Generally, a professional service is one in which the labor and skill is predominantly mental or intellectual, rather than physical or manual. Further, professionals are members of disciplines with widely accepted standards of required study or specified attainments in special knowledge, as distinguished from mere skill.

Policy Directive

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration.

If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include "sunset provision" within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

Policy Directive

Insurance Certificates reflecting contractual insurance requirements as well as any required Bonds (Performance and/or Payment Bonds) must be received prior to the commencement of any work under the contract. To the extent possible, contractors and vendors should be asked to provide insurance certificates and bonds prior to Council consideration.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

E. Small Business Office/ Economic Development

Review draft RFP/Q for form, content and appropriateness. Return to originating department with applicable recommendations

F. Originating Department

- Step 1 Receive recommendations/revisions and incorporate into RFP/Q.
- Step 2 Establish an Evaluation Team to review and rate the responses to the RFP/Q. Include persons familiar with the project and persons experienced with similar projects, as well as a representative from the Small Business Office of the Economic Development Dept. (Recommend having an uneven number of voting members on the Evaluation Team). Meet with Evaluation Team members to review their responsibilities, to ensure no conflict of interest exists, and to sign Code of Conduct Statement.
- Step 3 Finalize RFP/Q and clearly identify the RFP/Q's evaluation criteria. Evaluation criteria must include 20% consideration for SBEDA requirements, based on a 100 point scale. Additional evaluation criteria may include price, financial stability, experience, management plan, and responsiveness to the solicitation.
- Step 4 Advertise RFP/Q. The RFP/Q must be advertised in "minority-targeted media no less than 30 days" before responses are due. RFP/Q may also be posted to the City's website and provided to the Small Business Office of the Economic Development Dept. for posting on "bid board."
- Step 5 Conduct pre-proposal conference, if necessary.

G. City Clerk's Office

Receive responses to solicitation and forward responses to department.

H. Originating Department

Check to confirm that each respondent has included all required information. Notify the Evaluation Team of the date, time and location to meet and evaluate the responses. Prepare a scoring matrix that matches the evaluation criteria contained in the RFP/Q to record the evaluation. Send one (1) set of the responses, along with the scoring matrix, to Economic Development Department, Small Business Office for scoring of applicable SBEDA points.

**I. Small Business Office/
Economic Development**

Assign SBEDA points as applicable and return annotated scoring matrix to the originating department.

J. Originating Department

- Step 1 Convene evaluation team for evaluation of responses to RFP/Q using the scoring matrix, and add any awarded SBEDA points to each respondent as supplied by the Small Business Office.
- Step 2 Collect information and/or conduct interviews with respondents, if necessary.
- Step 3 Identify the most qualified respondent(s) and forward recommendation to the department head for endorsement. Finalize contract terms and price, negotiating as necessary. To the extent practicable, engage services of City Attorney's Office to assist in negotiations with respondent(s).
- Step 4 Submit respondent's certificate of insurance to Risk Management for review and approval.

K. Risk Management

Review insurance certificate for compliance with coverage limit requirements, and notify department of recommendations.

L. Originating Department

Complete a standard form draft professional services contract. Submit the draft contract to the City Attorney's Office for review.

M. City Attorney's Office

Review draft contract and provide revisions as necessary.

N. Originating Department

- Step 1 Prepare two duplicate original contracts.
- Step 2 Obtain signatures from the selected service provider on both original contracts.
- Step 3 Prepare the contract for placement on the City Council agenda for its consideration by completing a Request for Ordinance (RFO) and a memorandum to City Council.

**Professional Services
Selection Latitude**

The originating department has the latitude to select a contractor without competitive solicitation, if the required expenditure is less than \$25,000. The department director is authorized to execute a professional service contract under \$25,000 without City Council approval, so long as it is provided for in the budget and complies with applicable law.

Standard Contract

A standard professional services contract is included in this manual, see Appendix B.

Policy Directive

Departments must maintain consistent evaluation criteria among RFP/Qs for similar requirements. See Appendix C for example. Alternate evaluation criteria must be approved by Contract Services Division prior to advertising the solicitation.

Policy Directive

All contracts that have at least one risk assessment criterion characterized as "high" may be subject to a Management Team review. [See Chapter 4, Section 1] Contact the Contract Services Division for assistance with the Management Team review process.

Complex Professional Services Contracts

When Professional Services are particularly complex or of a large dollar amount, the City Attorney's Office should be asked to draft the contract.

Law on Professional Services Contracts

Texas Government Code Chapter 2254, Subchapter A governs procurements of certain Professional Services by municipal government.

O. City Council

Consider the proposed contract. If approved, authorize the City Manager or designee to execute the contract.

P. Originating Department

After Council approval, draft Magna Carta memo. For assistance, refer to Chapter 4, Section 18, "Preparing A Contract For City Council Consideration." Forward duplicate original contracts to the City Attorney's Office for signature, accompanied by Magna Carta memo.

Q. City Attorney's Office

Sign the duplicate original contracts indicating approval as to form, and forward to the City Manager's Office for signature.

R. City Manager's Office

Sign the approved contract on behalf of the City, and return duplicate original contracts to the department.

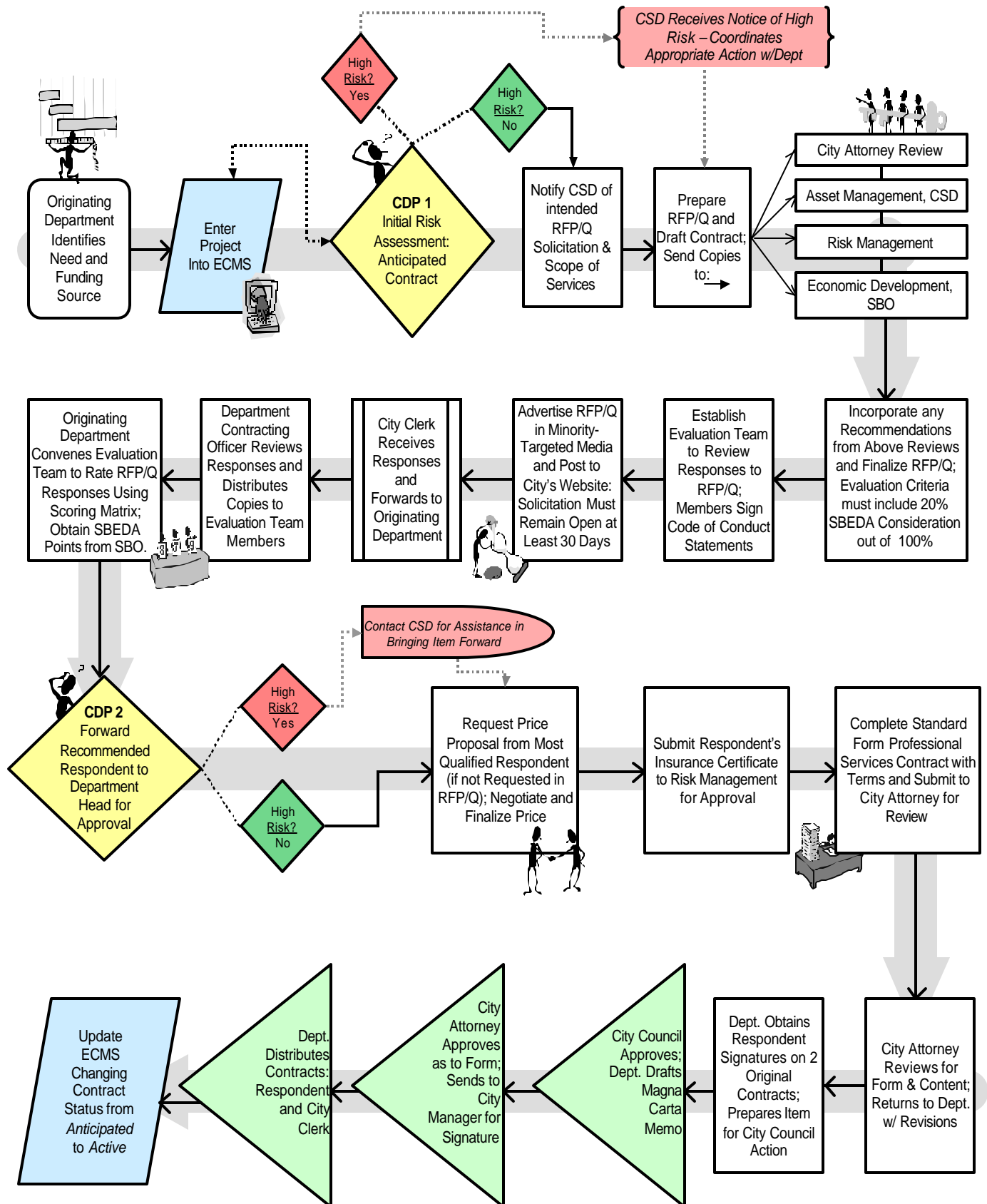
S. Originating Department

Step 1 Send one signed original of contract to contracting party. **Send one signed original to the City Clerk's Office.** Send photocopies to the project manager/coordinator and departmental contracting officer.

Departments do not retain original contract documents.

Step 2 Update ECMS, changing contract status from *Anticipated* to *Active*. Details for this step are outlined in the [ECMS Operation Manual](#).

PROFESSIONAL SERVICES CONTRACT PROCESS



THIS FLOWCHART IS A GRAPHIC SUMMARIZATION OF IDENTIFIED PROCESS STEPS CONTAINED IN THIS CHAPTER. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. SEE PAGES 85-88 FOR COMPLETE INSTRUCTIONS

Non-Professional Services

Non-professional services are defined as an agreement between the City and another party to perform a service requiring labor or skill that is primarily physical or manual in nature. Some examples of non-professional services include janitorial service, lawn service, microfilming, loading freight or cargo, plumbing, carpentry, painting, and electrical work.

Requirements for non-professional services are procured by the Purchasing Department.

First, individual departments define the required services, then contact the Purchasing Department for assistance in preparing procurement specifications. Subsequently, a purchase requisition is prepared with specifications attached.

The Purchasing Department may establish an annual contract if the non-professional service is anticipated to re-occur throughout the year.

Note: Departments may assume the authority and responsibility for the procurement of non-professional services less than \$3,000, provided that:

- a. the non-professional service is not related to insurance or high technology;
- b. the non-professional service is not available on an existing annual contract;
- c. the non-professional service is not for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property.

Procurement of Goods & Non-Professional Services

“General purchasing procedures” require a formal or informal solicitation for all materials or non-professional services.

“One Time Purchases” are made when the need for goods or services are satisfied and completed with one transaction. Regular purchase orders are issued and closed after payment is made.

“Annual Contract Purchases” are the purchase of materials, supplies or services which are constantly needed for City operations. The annual contract is a commitment to a supplier for certain goods or services over a period of time at a pre-determined price and the supplier's commitment to maintain a level of goods, and services commensurate with the City's needs. Contracts are prepared using the informal or formal bid process.

Purchases for goods and non-professional services up to \$3,000*

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
	Step 1 Determine need.
	Step 2 Obtain proper permission.
	Step 3 Make recommendations based on professional experience.
	Step 4 Make the purchase.
	Option 1 - Purchasing Card Used
	Step 5 Submits both itemized receipt and signed card receipt to department coordinator for processing as per purchasing card guidelines.
	Step 6 Department Coordinator verifies charge, obtains authorization and processes it for payment as per purchasing card guidelines.
	Option 2 - Invoiced for Purchase
	Step 5 Forwards the information to the proper staff in their department for processing.
	Step 6 Obtains authorization and submits Request for Payment to Finance.

**Purchases up to \$100 may be made utilizing Petty Cash procedures*

Purchases which cost \$3,000 .01 and up to \$25,000 (Informal Bid)**Responsible Party****Process Step****A. Originating Department**

- Step 1 Determines a need.
- Step 2 Completes a requisition.
- Step 3 Creates a technical specification for the desired procurement.
- Step 4 Obtains proper authorizations.
- Step 5 Forwards requisition and technical specification to Purchasing Department.

B. Purchasing

- Step 1 Obtains quotes with a minimum of two from a Historically Underutilized Business.
- Step 2 Reviews quotes for accuracy and completeness.
- Step 3 Forwards the requisition to Finance Dept to authorize the expenditure.
- Step 4 When approved, creates a purchase order authorizing the purchase.

**Purchases that Cost \$3,000.01 and Up to \$25,000
Informal Bid for Annual Contracts****Responsible Party****Process Step****A. Originating Department**

- Step 1 Determines a need.
- Step 2 Creates a technical specification for the desired procurement.
- Step 3 Obtains proper authorizations.
- Step 4 Forwards memo and technical specification to Purchasing Department.

**B. Purchasing or
Originating Department**

- Step 1 Obtains quotes with a minimum of two from a Historically Underutilized Business.
- Step 2 Reviews quotes for accuracy and completeness.

C. Originating Department

Completes and forwards a requisition to Purchasing with quarterly estimates.

D. Purchasing

Creates a purchase order with quarterly cost estimates authorizing annual purchases.

Petty Cash Purchase Procedure

Purchases costing less than \$100 may be made by the Department Head or authorized representative without competitive bids and without a purchase order, and payment will be made from petty cash.

Purchasing does not process requisitions for items under \$100.00.

Purchase Orders Using Grant Funds

When routing a procurement request that is grant funded, make sure that the buyer or contracting officer is aware of any and all bidding or procurement rules established by the grant's funding source.

Roofing Projects

All roofing repair or construction requests must be routed to the City Architect's Office in Public Works before submitting a request to Purchasing.

Best Value IFB

A best value bid is issued like a normal Invitation for Bid. A best value bid contains evaluation criteria, which may include price and other factors, such as SBEDA criteria, which must constitute 20% of the evaluation criteria - based on a 100 point scale.

Best value bids are only used for procurements of goods and non-professional services over \$25,000.

Contact the Purchasing Department for more information about when a best value bid can be employed.

Bond Funded Projects

All construction contracts funded with bond and certificate of obligation monies require City Council approval, regardless of value.

Bond Requirements

Payment bonds are required on construction contracts greater than \$25,000 and performance bonds are required on construction contracts greater than \$100,000. A payment bond guarantees payment of a contractor's suppliers and subcontractors. A performance bond guarantees completion of the contracted work. Both payment and performance bonds must be written for 100% of the contract value.

Purchases for goods and services more than \$25,000 & construction projects less than \$50,000 (formal bid)

Responsible Party

Process Step

A. Originating Department

- | | |
|--------|--|
| Step 1 | Determines a need. |
| Step 2 | Completes a requisition. |
| Step 3 | Creates a technical specification for the desired procurement. |
| Step 4 | Obtains proper authorizations. |
| Step 5 | Forwards requisition and technical specification to Purchasing Department. |

B. Purchasing (and applicable department, as necessary)

- | | |
|--------|---|
| Step 1 | Develops a bid document using technical specifications and standard contract terms to accurately address the requirements of the purchase; include SBEDA List of Subcontractors for estimated cost greater than or equal to \$25,000 and include SBEDA Good Faith Effort Plan for costs greater than or equal to \$200,000. |
| Step 2 | Advertises and solicits formal bids. |
| Step 3 | Reviews bids for accuracy and completeness. |
| Step 4 | Evaluate bids, create tabulation and forward to requisitioner for review and approval. |

C. Originating Department

- | | |
|--------|--|
| Step 1 | Reviews bids and prepares recommendation for award |
| Step 2 | Forwards recommendation to Purchasing. |

D. Purchasing

- | | |
|--------|--|
| Step 1 | Creates a request for ordinance for City Council approval and forwards copies to Finance, Budget and City Attorney's Office. |
| Step 2 | When approved, will create a purchase order authorizing the purchase. |

Insurance and High Technology Procurement Procedure

Definition

The Insurance and High Technology Procurement Procedure applies to the purchase of insurance and equipment or goods of a highly technical nature, including data processing and software and firmware used in conjunction with data processing equipment; telecommunications equipment, radio and microwave systems; electronic distributed control systems, including building energy management systems; technical services related to those items. Insurance and High Technology Procurement may be awarded to a vendor that provides the best solution to the City's need, which may or may not be the lowest bid.

Insurance and high technology procurement \$25,000.01 or more

Responsible Party

Process Step

A. Originating Department/ Purchasing

- | | |
|---------|---|
| Step 1 | Determines a need that qualifies for a high tech procurement. |
| Step 2 | Develops a Competitive Sealed Proposal (CSP) which includes scope of work, technical specifications and estimated project cost. CSP must include SBEDA List of Subcontractors for estimated cost greater than or equal to \$25,000 and include SBEDA Good Faith Effort Plan for costs greater than or equal to \$200,000. |
| Step 3 | Organizes a team of employees to evaluate proposals and make recommendation. |
| Step 4 | Develop evaluation criteria and finalize CSP. |
| Step 5 | Forward to the City Attorney's Office for review and sample contract. |
| Step 6 | Advertises CSP and mails to qualified suppliers. |
| Step 7 | Once returned, review responses for accuracy and completeness. |
| Step 8 | Evaluates and scores, technical and cost proposals according to evaluation criteria. |
| Step 9 | Determine finalists and, if necessary, conduct interviews. |
| Step 10 | Request and evaluate Best and Final Offers as applicable. |
| Step 11 | Make recommendation. |

B. Purchasing

- | | |
|--------|--|
| Step 1 | Prepare request for ordinance for City Council approval. |
| Step 2 | When approved, finalize contract. |

Purchase Orders Using Grant Funds

When routing a procurement request that is grant funded, make sure that the buyer or contracting officer is aware of any and all bidding or procurement rules established by the grant's funding source

High Technology, ITSD & Purchasing

All high technology (computer or telecommunications hardware and software) procurements must be approved through Information Technology Services Department (ITSD) prior to forwarding requisition to Purchasing.

High technology procurements may be made utilizing cooperative purchasing procedures, competitive sealed bids, or competitive sealed proposals as set forth in Chapter 252 of the Texas Local Government Code.

Competitive Sealed Proposals

Requests for competitive sealed proposals made under Chapter 252 of the Texas Local Government Code must solicit quotations and must specify the relative importance of price and other evaluation factors.

Policy Directive

Any extension or renewal for a contract characterized as "high risk" cannot be extended or renewed administratively. All extensions or renewals for "high risk" contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

A Qualified Information Systems Vendor (QISV)

The State of Texas maintains a listing of specific vendors qualified by the State to provide high technology items. The Purchasing Department can obtain three quotes from QISV vendors in order to meet the competitive bidding requirements.

A purchase from a QISV vendor requiring an expenditure greater than \$25,000 must still be approved by City Council.

The State Department of Information Resources

The State of Texas Department of Information Resources maintains a catalog of contracts with high technology vendors that have pre-negotiated pricing. The City of San Antonio (along with other municipalities) can purchase these catalog items directly through the Department of Information Resources or directly from the vendor.

Cooperative Purchasing and Other Governmental Entities

To engage in cooperative purchasing with another governmental entity, the City must first enter into an Interlocal Agreement with that entity. Interlocal Agreements require City Council approval.

State or Other Cooperative Purchasing Procedure

Definition

Local Government Code, Chapter 271, Subchapter F, and Chapter 791 of the Government Code, allow governmental entities to cooperate in a local purchasing program, and to engage in cooperative purchasing with other local governmental entities. Cooperative purchases that comply with these statutes satisfy state laws on competitive bidding.

Cooperative Purchases which cost \$3,000 .01 and up to \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Determines a need.
Step 2	Completes a requisition.
Step 3	Obtains proper authorization.
Step 4	Forwards requisition to Purchasing Department.
<hr/>	
B. Purchasing	Verifies item as being on an existing contract, evaluates the cost effectiveness of using the contract, and issues a purchase order.

Cooperative Purchases which cost greater than \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Determines a need.
Step 2	Completes a requisition.
Step 3	Obtains proper authorization.
Step 4	Forwards requisition and recommendation to Purchasing Department.
<hr/>	
B. Purchasing	Step 1 Verifies item as being on an existing contract and evaluates the cost effectiveness of using the contract.
	Step 2 Creates a Request for Ordinance for City Council approval.
	Step 3 When approved by City Council, creates a purchase order authorizing the purchase.

Emergency Purchasing Procedure

Definition

An “emergency” is deemed to exist in the following situations: (a) a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality’s residents or to preserve the property of the municipality; (b) it is necessary to preserve or protect the public health or safety of the municipality’s residents; or (c) because of unforeseen damages to public machinery, equipment or other property.

Emergency purchases which cost \$3,000 .01 - \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Emergency occurs as defined.
Step 2	If possible, contacts a minimum of three vendors and obtains quotes.
Step 3	Prepares a requisition and Certificate of Exemption from competitive bid or proposal requirements justifying using the emergency procedure.
Step 4	Obtains proper authorization from Department Director.
Step 5	Forwards to Purchasing the requisition with suggested vendor, cost and funding information, quote and authorized Certificate of Exemption from competitive bid or proposal form.
B. Purchasing	
Step 1	Creates a purchase order and issues number verbally to Department.

Emergency purchases which cost greater than \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Emergency occurs as defined.
Step 2	If possible, contacts a minimum of three vendors and obtains quotes.
Step 3	Prepares a requisition and Certificate of Exemption from competitive bid or proposal requirements justifying using the emergency procedure.
Step 4	Obtains proper authorization from Department Director and City Manager.
Step 5	Forwards to Purchasing the requisition with suggested vendor, cost and funding information, quote and authorized Certificate of Exemption from competitive bid or proposal form.
B. Purchasing Department	
Step 1	Creates purchase order and issues number verbally.
Step 2	Prepares request for ordinance for City Council to ratify contract and authorize payment.
Step 3	Forward copies to Finance, Management & Budget and City Attorney’s Office.

Emergency Purchases

An emergency purchase requiring an expenditure greater than \$25,000 still needs City Council approval or ratification.

All emergency purchases exceeding \$25,000 in cost must be approved by City Council and supported by a **Certificate of Exemption** – exempting this procurement from competitive bidding – signed by the originating department’s Director and City Manager or designee.

Sample Documents

Sample documents such as Certificate of Exemption are available in [Appendix C](#).

**Purchase Orders Using
Grant Funds**

When routing a procurement request that is grant funded, make sure that the buyer or contracting officer is aware of any and all bidding or procurement rules established by the grant's funding source.

Sole Source Documents

Sample sole source documents are available in Appendix C.

Sole Source Purchasing Procedure**Definition**

A sole source purchase is a procurement of goods and/or services that are available from only one source, including a) items that are available from one source because of patents, copyrights, secret processes, or natural monopolies; b) films, manuscripts, or books; c) electricity, gas, water and other utility services; d) captive replacement parts or components for equipment; e) books, papers and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a non-profit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

Sole Source Purchases Between \$3,000.01 and \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Determines a need that falls under the guidelines of sole source purchases as previously listed.
Step 2	Prepares justification for sole source purchase and cost proposal.
Step 3	Completes a requisition.
Step 4	Obtains proper authorization.
Step 5	Forwards requisition, justification and cost proposal to Purchasing.
B. Purchasing	
Step 1	Verifies justification and issues purchase order.

Sole Source Purchases greater than \$25,000

<u>Responsible Party</u>	<u>Process Step</u>
A. Originating Department	
Step 1	Determines a need that falls under the guidelines of sole source purchases as previously listed.
Step 2	Prepares justification for sole source purchase form, a Certificate of Exemption from competitive bid or proposal requirements, and cost proposal.
Step 3	Completes a requisition.
Step 4	Obtains proper authorization.
Step 5	Forwards requisition, justification for sole source purchase form, certificate of exemption from competitive bid or proposal requirements, and cost proposal to Purchasing.
B. Purchasing	
Step 1	Verifies justification and creates a request for ordinance for City Council approval and forwards copies to City Attorney's Office, Management & Budget, and Finance.
Step 2	When approved, creates a purchase order authorizing the purchase.

Other Contract Types

Memorandum of Understanding

A Memorandum of Understanding (MOU) is a document used to identify the roles of two or more parties who wish to engage in an informal partnership to accomplish a project. An MOU is used when the parties do **not** wish to be legally bound to the roles that are identified in the document, but are merely willing to perform these roles for a specified period of time, providing it remains feasible to do so. The City Attorney's Office should be asked to review each draft MOU.

When drafting an MOU for City Attorney's Office review, it should contain the following text in its preamble:

WHEREAS, the purpose of the MOU is to articulate the roles *[name of other party]* and the City will perform in connection with *[program, project, etc.]* and is not intended to be a binding agreement;

Except for the above text, the MOU is not to contain the words "contract," "agreement" or "agree" in the document. For example, when articulating the roles of each party, **do not** use language such as, "The City of San Antonio *agrees* to the following..." Instead use language such as, "The City of San Antonio *intends* to..."

Even though an MOU is not a contract, the City Attorney's Office and Risk Management must still review the document before it is signed and implemented.

Interlocal Agreement

An interlocal agreement is a contract between two or more local governmental entities for the performance of a governmental function or service. These contracts are governed by the Interlocal Cooperation Act found in the Texas Government Code, Chapter 791, which defines local governments, governmental functions and services, and the rules governing such agreements. Since these agreements are between two or more separate legal entities, they are generally enforceable in court, depending upon the principles of sovereign immunity.

Interdepartmental Agreement

Interdepartmental agreements are cooperative agreements between two or more internal city departments. They are not contracts in the true sense of the word. In order to be a true contract, that is enforceable in a court, the agreement must involve two or more legal entities. The City of San Antonio is a legal entity; that is, it exists as such in the eyes of the law. A city department, however, is only a component of the City, not an entity unto itself. The City may sue a party in a court for breach of a contract. But a city department cannot sue another city department for breach of an interdepartmental agreement, since one cannot sue oneself.

Low Bid Contracts & Disclosure Forms

A Discretionary Contracts Disclosure Form is not required for low bid contracts.

A Contract With Multiple Departments Involved

When multiple departments are involved in a contract, each department head may sign the interdepartmental memorandum (ordinance memo); however, the Request for Ordinance Form is only signed by the head of the lead department - the department which will present the item to City Council.

PowerPoint Presentations For City Council

PowerPoint presentations are required for all agenda items scheduled for individual consideration, other than City Council contingency items. Printed copies may be in black and white, unless a photograph or map requires color for best depiction. In such cases, only 13 printed copies must be in color. The remainder may be in black and white.

Recommendation: Prepare brief PowerPoints for consent items where there is a likelihood the item will be pulled for individual consideration. No printed copies are required.

Contracts Using Federal Funds

Contracts using Federal funds must include language, certifying the contractor is not prohibited from receiving Federal funds. Sample contract language is available in Appendix B.

Preparing a Contract for City Council Consideration

Unless specific authority is delegated by ordinance, the San Antonio City Council must approve all contracts. The City Council indicates its approval of a contract by passing an ordinance. The contract, signed by the contracting party, must be attached to the ordinance as an exhibit to verify the terms that City Council is approving. After the ordinance is approved, the City Manager, or a designee, signs the contract.

Ordinance Process Timeline

Two Weeks Prior to City Council Date	Ordinance Packet Prepared by Initiating Department Includes: <ul style="list-style-type: none"> • Request for Ordinance Form. See sample document. • Interdepartmental Memorandum (Ordinance Memo). See sample document. • Contract • Signed Discretionary Contracts Disclosure Form (If required) • Selection Evaluation Summary • Any other backup materials • No later than Friday, noon, thirteen days prior to the City Council date, Dept. Director signs interdepartmental memorandum and forwards to appropriate Management Team member for review and signature.
Monday, Noon, Ten Days Prior to the City Council Date	Completed, signed ordinance packet submitted to City's Agenda Coordinator [Erik Walsh, Assistant to the City Manager, through Joann Sanchez, Senior Administrative Assistant (ext. 76991)] by appropriate Management Team member. The Agenda Coordinator places the item on the draft agenda for the week preceding the City Council date.
Tuesday, Afternoon, Nine Days Prior to the City Council Date	Performance Analysis Team Staff reviews ordinance packets and provides feedback to the departments if modifications are needed.
Wednesday, 10:00 a.m., Eight Days Prior to the City Council Date	Draft agenda is discussed by City Manager and Executive Team at the Agenda Review Meeting.
Friday, Six Days Prior to the City Council Date	City Manager signs the ordinance memoranda, copies are made and distributed to the Management Team and City Council.
Monday, 1:00 p.m., Three Days Prior to the City Council Date	The agenda is posted at City Hall by the City Attorney's Office. When there is a holiday on Monday, the agenda is posted the previous Friday. <i>(Required by Open Meetings Act- No changes to caption after this time.)</i>
Tuesday, 2 p.m., Two Days Prior to the City Council Date	If applicable, PowerPoint presentations submitted to Scott Wudel in the Public Information Office (ext. 74494) by the initiating department.
Wednesday, 10:00 a.m. One Day Prior to the City Council Date	Posted agenda is discussed by City Manager and Management Team at the Agenda Review Meeting
Thursday, 1:00 p.m. City Council Meeting	Item is publicly presented to City Council.

Contract Administration & Monitoring

Once a contract has been executed, the “*Performance Phase*” of the contracting process begins. **The most important undertaking during this phase is the verification and documentation of vendor or contractor performance.**

For most of the contracting processes described in this manual, the requesting department assumes responsibility for ensuring that goods or services are provided by contractors or vendors in accordance with specifications and contract terms and conditions. It is specifically recommended that for every contract, there be one individual responsible for ensuring that goods and services are provided appropriately.

One of the most important tasks for those individuals assigned with the responsibility of ensuring vendor or contract performance – Quality Assurance Evaluators – will be to ensure the maintenance of contract files and all other pertinent documentation. The Quality Assurance Evaluator, or QAE, must keep a complete history of all correspondence (including phone calls) with a vendor or contractor, a comprehensive history of all problems – and successes – associated with vendor or contractor performance, and, perhaps most importantly, must ensure that the City takes any and all necessary action that might be prescribed contractually. The goal of this documentation is to maintain a complete and comprehensive history of the City’s relationship with a contractor or vendor in order to resolve contractual disputes.

It is important that the QAE acknowledge that all goods and services were provided in accordance with contractual terms and conditions prior to payment.

For contracts related to services, department heads or their designee will appoint an individual staff member to “receive,” “accept,” or “verify” the completion of services for a particular contract.

For goods procured through the Department of Purchasing and General Services, there are specific procedural steps required to “receive” and “accept” delivered goods and services. Please contact the Finance Department and the Department of Purchasing and General Services for specific details.

Contract Extensions or Renewals

Any extension or renewal for a contract characterized as “high risk” cannot be extended or renewed administratively, even if the original contract document provides for such. All extensions or renewals of “high risk” contracts must be submitted to City Council for consideration. (See also *Policy Directive 8*.)

Records Retention

Texas law requires that the Texas State Library and Archives Commission shall issue records retention schedules for each type of local government, including a schedule for records common to all types of local government. The records control procedures of a local government may not set a retention period for a record that is less than that established by the Library and Archives Commission. To obtain the retention schedules issued by this commission, go to www.tsl.state.tx.us or click on the links below:

- [Records of Public Works and Services](#)
- [Records of Public Health Agencies](#)
- [Records of Public Safety Agencies](#)
- [Records of Justice and Municipal Courts](#)
- [Records of Elections and Voter Registration](#)
- [Records Common to all Local Governments](#)

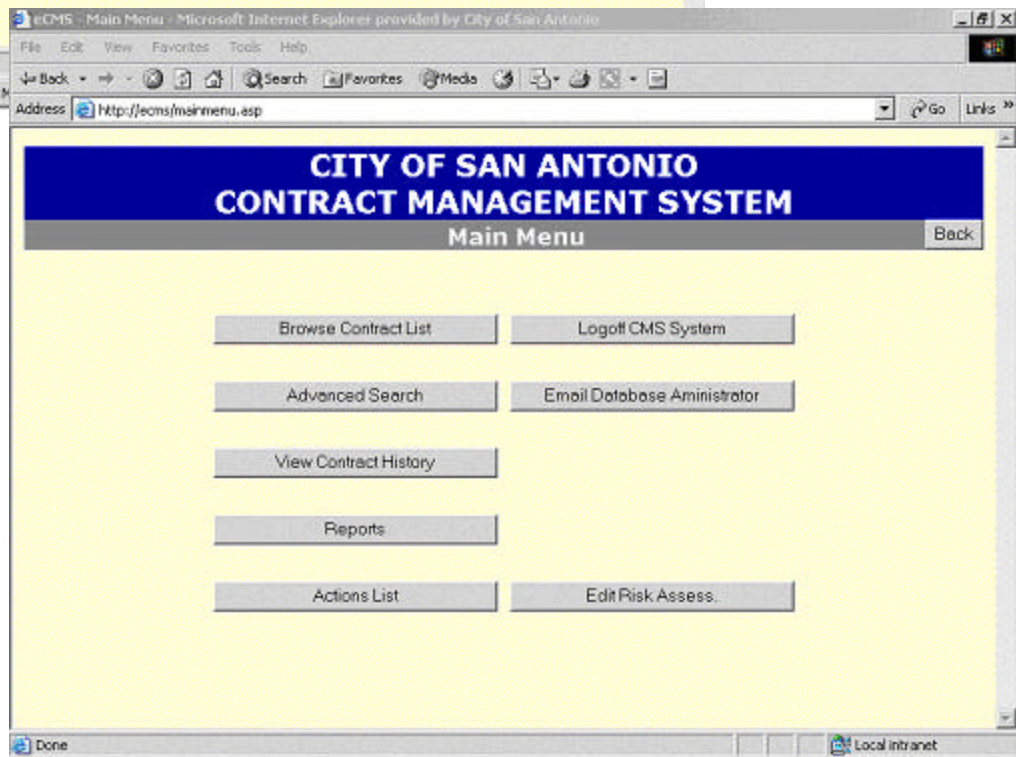
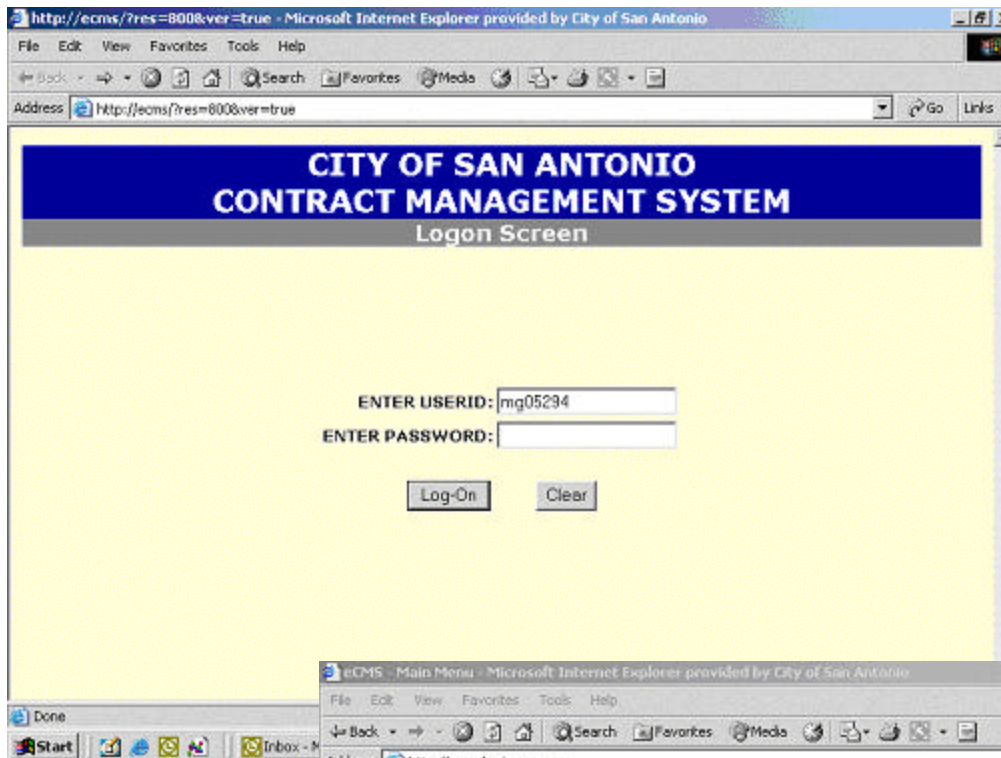
Prompt Payment Act

The Prompt Payment Act, Government Code, Chapter 2251, requires the City to pay for goods and services no later than 30 days after receipt of the goods or service, or the invoice, whichever is later. Several exceptions exist, including one for situations in which there is a bona fide dispute about the invoice or goods/ services received. Late payment penalties apply when prompt payment is not made and there are no disputes.

Electronic Contract Management System

OVERVIEW

The purpose of this chapter is to describe the background, purpose, and capability of the Electronic Contract Management System.



Electronic Contract Management System (ECMS)

In October 2001, the Department of Asset Management Contract Services Division and the Information Technology Services Department developed and implemented the Electronic Contract Management System (ECMS), which was then incorporated into the day-to-day contracting operations of City departments. Prior to the advent of the ECMS, it was difficult and sometimes impossible to answer the most basic questions pertaining to City contracts without extensive staff hours devoted to research. Now, the ECMS effectively captures contracting data and provides both management and staff with significant information through system queries. The ECMS can provide contract data including:

- Contract Name
- Contract Value
- Contracts by Department
- Contract Renewal Options
- Amended Contracts
- Anticipated Contracts
- Summary of Contract Activity
- Contract Expiration Date

Keeping the data within ECMS properly maintained is critical. The entering of contract data must be integrated into the daily tasks of staff responsible for managing contracts. For this reason, ECMS has been equipped with features that enable contract monitoring and contract managing staff to perform much of their work using ECMS as the single contracting system.

Entries to ECMS begin when the staff of a City department first begins the planning of a project that will require one or more contracts. A record for each contract that will be needed for the accomplishment of the project is entered into ECMS. When entering these “*Anticipated*” contracts, the ECMS guides the user through a risk assessment and notifies appropriate staff when additional review is advised for a particular project.

ECMS allows staff that monitor and manage contracts to enter all of the important deadlines and actions required for each contract, and generates tasks lists for the actions that can be sorted by any combination of date, specific contract or by specific department contact. Additionally, the ECMS will automatically notify staff by email as each action due date approaches.

By updating ECMS records each time progress is made in the contracting process, ECMS becomes the single source for the current status of a contract. This promotes consistency in the contracting process, provides improved analysis and comprehensive documentation, and enhances management participation.

Policy Directive

ECMS is a vital tool used by the Management and Executive Teams for information, planning and agenda coordination.

A contract record possessing the status of *Anticipated*, must be entered into ECMS by the originating department, as soon as it begins the planning of a project that will require a contract. The updating of that ECMS record must occur with sufficient frequency to accurately reflect the status of the actual contract it represents, including *Active*, *Amended*, *Renewed* and *Complete*.

Review the ECMS manual for [detailed instructions](#) on its operation.

Sample Documents

[Certification Regarding Debarment for Bids](#)

[Certification Regarding Debarment for Proposals](#)

[Certification Regarding Debarment for Qualifications](#)

[Magna Carta Memo](#)

[Memo to Advertise Capital Projects Bid](#)

[Memo to Advertise RFP](#)

[Memo to City Council Format](#)

[Memo to City Council Narrative](#)

[PowerPoint Format](#)

[Proposal Evaluation Summary](#)

Sample Contracts

[Construction Contract](#)

[Debarment Certification Clause](#)

[Non-Professional Services Contract \(contracts under \\$3000\)](#)

[Professional Services Agreement](#)

[Professional Services Contract - Architect Services](#)

[Professional Services Contract - Engineer](#)

[Real Estate License](#)

Sample Forms

[Architecture Service Request Form](#)

[Contractor Performance Form](#)

[Certificate of Exemption](#)

[Checklist for Bid Advertisement](#)

[Code of Conduct Form](#)

[Request for Proposal \(RFP\) Template](#)

[Discretionary Contracts Disclosure Form](#)

[Evaluation Summary](#)

[Litigation Disclosure Form](#)

[Performance Evaluation](#)

[SBEDA List of Subcontractors](#)

[SBEDA Good Faith Effort Plan](#)

[SBEDA Policy](#)

[SCTRCA Application Form](#)

[Sole Source Form](#)

[30-Day Bid Waiver](#)

Policy Directives

These policy directives were derived at the direction of the City Manager. They should be applied universally across all contract types.

PD 1

In general, all contracts should be signed by the contractor or vendor prior to City Council consideration. If contract cannot be signed prior to City Council consideration, obtain approval from the Contract Services Division prior to taking the contract to City Council. Attach contract in substantially final form to ordinance and include “sunset provision” within the ordinance – that shall not exceed sixty (60) days – identifying time period in which to finalize minor details.

PD 2

All contracts that have at least one risk assessment criterion characterized as “high” may be subject to a Management Team review [See Chapter 4, Section 1]. Contact the Contract Services Division for assistance with the Management Team review process.

PD 3

The evaluation criteria for architecture and engineering Request for Qualifications (RFQs) must be consistent. Alternative evaluation criteria must be coordinated by the Public Works/Capital Programs Division and the Department of Asset Management/Contract Services Division.

PD 4

Departments must maintain consistent evaluation criteria among RFPs for similar requirements. See Appendix C for example. Alternate criteria must be approved by Contract Services Division prior to advertising the solicitation.

PD 5

Insurance Certificates reflecting contractual insurance requirements as well as any required Bonds (Performance and/or Payment Bonds) must be received prior to the commencement of any work under the contract. To the extent possible, contractors and vendors should be asked to provide insurance certificates and bonds prior to Council consideration.

PD 6

All professional services, as described under Texas Government Code Chapter 2254, must be reflected by a contractual agreement [See Chapter 1, Section 4].

PD 7

The composition of the evaluation team on all high risk contracting initiatives (those initiatives that have at least one “high risk” criterion on the ECMS risk evaluation tool) must be approved by the department’s Management Team Member. The four high risk criteria are: dollar amount, solicitation method, community interest, and contract complexity.

PD 8

Any extension or renewal for a contract characterized as “high risk” cannot be extended or renewed administratively. All extensions or renewals for “high risk” contracts must be submitted to City Council for consideration, even if the contract originally provided for administrative renewal/extension.

PD 9

Each Evaluation Team member will be required to sign a Code of Conduct Statement [SAMPLE](#) prior to reviewing proposals. It is the responsibility of the CCO to ensure that each Evaluation Team member understands the contents of the Code of Conduct Statement and has been briefed regarding their responsibilities related to conflict of interest and non-disclosure of information obtained during the reviews. The CCO shall file the signed Code of Conduct Statements with the contract file.

PD 10

A contract record possessing the status of *Anticipated*, must be entered into ECMS by the originating department, as soon as it begins the planning of a project that will require a contract. The updating of that ECMS record must occur with sufficient frequency to accurately reflect the status of the actual contract it represents, including *Active*, *Amended*, *Renewed* and *Complete*.

PD 11

All Requests for Proposals (RFP's) and Requests for Qualifications (RFQ's) – except those for architectural and engineering services – must be directed to the Asset Management Department/Contract Services Division for review and approval prior to solicitation.

Glossary

Anticipated Contract - The status of a contract that is in the pre-execution phase. Entered into ECMS as *Anticipated* contract status.

Architectural Contract - A professional services agreement in which the City hires an architect, landscape architect, architectural firm, or landscape architectural firm for the purpose of creating architectural designs. This is not a construction contract.

Best Value – a method of procurement of goods or non-professional services in accordance with Chapter 252 of the Texas Local Government Code, in which the contractor may be selected based upon criteria set forth in the Invitation for Bid. Criteria may include: (1) the purchase price; (2) the reputation of the bidder and of the bidder's goods or services; (3) the quality of the bidder's goods or services; (4) the extent to which the goods or services meet the municipality's needs; (5) the bidder's past relationship with the municipality; (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically under utilized businesses and nonprofit organizations employing persons with disabilities; (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and (8) any relevant criteria specifically listed in the request for bids or proposals. Texas Local Government Code Sec. 252.043, as may be amended from time to time.

Bid - Submission method in which a contract is awarded to the responsible party providing the lowest price, or best value, for goods or non-professional services. The use of bids is governed by Chapter 252 of the Texas Local Government Code.

- Low Bid. Procurement method in which the contract is awarded to the responsible bidder offering the lowest price. Low bid procurements may be used for a variety of goods and non-professional services.
- Best Value Bid. Procurement method in which a contract is awarded to the responsible party providing the best value for a good or non-professional service. Best value bids may consider purchase price, reputation of the bidder, quality of goods/services, extent to which goods/services meet the City's needs, bidder's past relationship with the City, impact on the City's ability to contract with historically under utilized businesses, long term cost to the City, and any relevant criteria specifically listed in the request for bids. Best value bids may not be used for construction.

Catering Agreement - Is a type of concession contract required for City facilities that host public and private events.

Certified Contracting Officers - members of staff who have completed the required training courses offered by the Contract Services Division of Asset Management and are responsible for managing and monitoring contracts.

Competitive Sealed Proposal – A method of competitive procurement in which a contract is awarded to a responsible respondent whose proposal is determined to be the most advantageous to the City. Evaluations of competitive sealed proposals consider the relative importance of price and other factors identified in the solicitation. This type of solicitation may only be used for procurements of insurance and high technology, which include equipment, goods, or services of a highly technical nature. See also "High Technology Procurement." The use of Competitive Sealed Proposals is governed by Chapter 252 of the Texas Local Government Code.

Construction Contract - A contract for the alteration, modification, repair, building, fabricating, or erecting of a public work or physical improvement. Examples include streets, sidewalks, bridges, and residential or commercial buildings. Other examples include house relocation, roofing, flooring, building foundation, design enhancements (public art), and parks.

Contract Administration - The management and monitoring of a contract in the planning, execution, and performance phases.

Component Purchases - Purchasing component parts of an item that in normal purchasing practices would be purchased in one purchase. This practice is unlawful if utilized in an attempt to circumvent the requirements of Ch. 252 of the Texas Local Government Code.

Concession Agreement - A license or lease agreement in which the City allows another party to use City owned property to operate and/or manage a retail sales business, amusement activity, or service. The concession may be owned by the City and managed by a third party, or the concession rights may be owned by the third party. Examples may include the sale of food, beverages, novelties, shoeshines, or miniature train rides.

Debarment– A process by which an individual or business is prohibited from contracting with or receiving federal or state funds. The ineligibility may be a temporary suspension or permanent in nature. The General Services Administration maintains a list of persons who are ineligible for funding called the List of Parties Excluded from Federal Procurement and Nonprocurement Programs. The list may be viewed at <http://epls.arnet.gov/servlet/EPLSArchMain/1>. A similar state site is maintained at <http://www.gsc.state.tx.us/stpurch/venman.html#debarred>.

Delegate Agency - Entity receiving City funds to perform a service or function.

Electronic Contract Management System (ECMS) - Database maintaining the City's contracting information.

Engineering Contract - A professional services agreement in which the City hires an engineer or engineering firm to perform a service that falls within the scope of the practice of engineering, as defined by state law. This is not a construction contract.

Environmental Agreement - There are two types of agreements, which fall under the "environmental" heading. 1: professional services agreement where a consultant, usually an engineer, is hired to provide advice on environmental issues. The work may include sampling soil for lead or walls for asbestos. While this may be an engineering contract, it should be entered under "environmental" in ECMS to distinguish it from other types of engineering contracts. 2: construction agreement where a contractor is hired to remediate an environmental hazard. Examples include the actual removal of lead contaminated soil or asbestos from buildings. These contracts are usually not competitively bid, as they often involve health and safety issues.

Evaluation Panel/Team – A carefully chosen or representative group of City staff, advisory board members, and private industry representatives, or any combination of the preceding, who will serve as a group to consider, evaluate, and arrive at a recommendation for a contractor(s) as a result of reviewing responses received from a Request for Proposals and/or a Request for Qualifications. Evaluation Panel/Team members are generally chosen for their experience with a given solicitation, or as a representative of a stakeholder group.

Execution Phase - is characterized by the solicitation process, subsequent negotiations with a selected vendor or contractor, the drafting of a contract, and the approval process leading to contract execution by a department head or through the Council Ordinance process.

Foreign Trade Zone Agreement - An agreement between the City and a business entity that imports goods into the United States for sponsorship of the company with the U.S. Customs office in exchange for payment of certain fees and an obligation to do some act(s) that benefits the public.

Franchise Agreement - A license agreement in which the City allows another party to use the City right of way to provide a public service for cable or broadband communications. The service must be provided Citywide.

Grants (City as Recipient) - Agreements between the City and another entity wherein the City receives grant funds from the entity and is obligated to perform a service or function in exchange for the grant funds. 1: The City may perform the service or function itself when receiving grant funds. An example would be a grant from the Federal Government to fund a position of family violence prosecutor at Municipal Court. 2: The City may also contract with another entity (sometimes referred to as "subrecipients") to perform the service or function required by the grant, either in its entirety or in part. This arrangement may be called a "pass through grant" in that the funds are passed through the City to a subrecipient. The City may retain a portion of the funds for grant administration. An example would be federal funds provided to the YMCA in support of after school day care, youth related activities, or services for the elderly.

Grants (City Funded Grants) - Agreements between the City and another entity, in which the City provides City funds (i.e., General Funds, Special Revenue Funds, Enterprise Funds, Expendable Trust Funds), to the entity ("delegate agency") to perform a service or function. An example would be an agreement in which the City provides funds to the San Antonio Zoological Society in support of the zoo.

Grants (Matching Fund) - Agreements between the City and a third party, which may be funded from both the federal or State Government and the City (i.e., General Funds, Special Revenue Funds, Enterprise Funds, Expendable Trust Funds), for that third party to perform a function or service. Examples of hybrid grants would be those provided to the Guadalupe Cultural Arts Center and to the Community Economic Revitalization Agency.

High Risk - A designation made by the Electronic Management System (ECMS) risk assessment. Appropriate staff is advised that additional review is recommended for the project.

High Technology Procurement - The procurement of equipment, goods, or services of highly technical nature. Examples of high technology procurement are data processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems, energy management systems, software, and technical services related to those items.

Indemnification – An agreement to protect a party against loss, to save and hold harmless, to make good, to compensate or reimburse for loss incurred. The indemnitee is the party to be protected. The indemnitor is the party bound to protect the other. The agreement may protect against the claims of third parties, or a contemplated act of either party to the contract.

Interlocal Agreement - An agreement between two or more governmental entities wherein one or more entities performs a governmental function or service for the benefit of the other(s). An example would be an agreement for the City to provide fire protection services to another municipality.

Lease Agreement - An agreement providing a right to occupy real property for a limited period of time, usually in consideration of the payment of rent, giving rise to the relationship of landlord and tenant. The City may be either the landlord or the tenant. An example is a lease of riverwalk space by the City to tenants. Another example would be an agreement whereby the City uses office space for our staff in a building owned by another party. Leases are different from licenses, which are defined elsewhere herein.

License Agreement (Intellectual Property)- An agreement allowing one entity to use the intellectual property of another entity, usually in exchange for a fee. Either the City or the other entity may be the one granting the license. An example would be an agreement allowing the City to use the image of a mural painted on a City building on T-shirts for sale in the City Store.

License Agreement (Real Estate)- An agreement granting a privilege for a specific, limited, temporary use of City owned or controlled real property, including the right of way, in exchange for a monetary or other benefit to the City. Examples include improvements placed within the public right of way, such as buildings with roofs that overhang a sidewalk, an overhead walkway across a street, signage (will now be granted by permit), and use of parks for events. Real estate licenses are different from franchises and concessions, which are defined elsewhere herein.

Management Agreement - An agreement in which the City hires an individual or entity to manage a City owned facility or operate a program. An example is our agreement with the San Antonio Botanical Society to manage and operate the Botanical Gardens.

Management Review - Presentation to the City Manager and Assistant City Managers of a project or initiative, which is likely to involve significant discussion and justification. Management Reviews may be conducted for high risk procurements.

Memorandum of Understanding- This is not a contract. It is a document that identifies the intended roles of the parties intending to enter into a contract. The parties are not expressing an agreement to actually be bound by this document.

Non-Professional Services Agreement - An agreement between the City and another party to perform a service requiring labor or skill that is primarily physical or manual in nature. Non-professional service agreements may be revenue or expenditure contracts. Some examples of non-professional services include janitorial service, lawn service, microfilming, loading freight or cargo, plumbing, carpentry, painting, and electrical work.

One Time Event Contract - An agreement between the City and another party for the use of City property for a special event. This is a type of license. Examples of one time events include the following: 1: An agreement between the City and a professional association for use of the Convention Center for the association's annual meeting. 2: An agreement between the City and concert promoters for use of the Alamodome, Sunken Garden Theatre, City streets or park space to produce a concert.

Performance Phase - All events that occur post-execution, that is, after the contract is signed.

Personal Service Agreement - An agreement between the City and another party for a specific person to perform a specific service. A personal service involves the work performed by a particular person rather than a salable product of his skill. Examples of personal services include artists, musicians, storytellers, and construction managers.

Planning Phase -The first phase of a contracting or procurement process. The concept or purpose of the contracting initiative is defined during the Planning Phase. During this phase, a funding source is determined, an estimate of the contract value is made, business and liability risk is assessed, and a comprehensive scope of services or product specifications is developed.

Planning Services - Services primarily intended to guide governmental policy.

Professional Service- An agreement between the City and a party deemed to be a professional to perform a service relating to that profession. Generally, a professional service is one in which the labor and skill is predominantly mental or intellectual, rather than physical or manual. Further, professionals are members of disciplines with widely accepted standards of required study or specified attainments in special knowledge, as distinguished from mere skill. Some examples of professional services include those provided by attorneys, accountants, consultants, landscape architects, land surveyors, real estate appraisers, optometrists, teachers, theologians, doctors, and nurses. Architects and engineers are professionals, but ECMS provides a separate category for architecture and engineering contracts. Lawn service, container terminal operators, janitorial services, microfilming, loading freight or cargo, plumbing, carpentry, painting, and electrical work are not considered professional services.

Public Work – Construction of a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction. Texas Government Code §2258.002. Note that a “public works contract” is a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. Texas Government Code §2253.001.

Request for Proposal (RFP) – A competitive procurement process allowing the City to consider a variety of factors when selecting a contractor for award. Price, qualifications, experience, innovations, creativity, and project approach are some factors, which may be evaluated. RFP's may be used for the procurement of consulting and other professional services.

Request for Qualifications (RFQ) – A method of procurement in which the City seeks to identify those persons or entities that may be qualified to provide defined services. Respondents are asked to summarize their background, experience, certifications, knowledge, education, skills, and/or training. An RFQ may be used then the City is unaware of the availability of qualified persons or entities in that “market.” However, an RFQ is sometimes used as a first step in a procurement process, with a Request for Proposal to follow. An RFQ may also be used as the sole procurement process.

Risk Assessment - A function performed by the Electronic Contract Management System (ECMS), to help guide the level of review required for a project.

Risk Criteria - Are the determining factors in whether or not a project requires additional review. Examples include, high contract value, high complexity, high public interest.

SBEDA – Small Business Economic Development Advocacy

Scoring Matrix - A document, prepared as a spreadsheet or text, that lists each evaluation criterion and the applicable points as defined in the Request for Proposals and/or Request for Qualifications. The contracting officer of the issuing City department normally prepares the scoring matrix that will be used by the evaluation panel/team to score and rate the responses received to a Request for Proposals and/or Request for Qualifications. Once the members of the evaluation team/panel have submitted their scores to the contracting officer, a final **scoring matrix** is compiled incorporating the panel's scores to justify the recommendation of a particular vendor to City Council.

Separate Purchases - Items purchased separately that in normal purchasing practices would be acquired in one purchase. This practice is unlawful if utilized in an attempt to circumvent the requirements of Ch. 252 of the Texas Local Government Code.

Sequential Purchases - Items purchased over a period of time that in normal purchasing practices would be purchased in one purchase. This practice is unlawful if utilized in an attempt to circumvent the requirements of Ch. 252 of the Texas Local Government Code.

Sole Source – Refers to an exemption from the competitive bidding requirements of Chapter 252 of the Texas Local Government Code, and indicates that an item may only be procured from one vendor. §252.022(7) lists items falling within this exception as: (A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; (B) films, manuscripts, or books; (C) gas, water, and other utility services; (D) captive replacement parts or components for equipment; (E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and (F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

Subrecipient - Entity receiving federal or state funds passed through the City. The City is the recipient of the federal or state funds – the entity is the subrecipient.

Tax Phase-In Agreement - An agreement between the City and business entity to abate City ad valorem taxes in exchange for some consideration that serves a public purpose.

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CITY VACANCIES

http://www.sanantonio.gov/edd/ (1 of 4) [5/19/2003 9:41:12 AM]

Project Updates/What's New

Join us as we honor one of San Antonio’s most legendary civic leaders
and announce the establishment of

The William R. Sinkin Microloan Fund for Small Business

Monday, May 19, 2003
11:30 a.m. to 1 p.m.
La Villita Assembly Hall

Bow tie required!
RSVP to [Blanca Uribe de Hernandez](#)
(210) 207-3919

Tax-deductible donation
\$ 40.00 per person
\$ 500.00 corporate table

[Veterans Affairs Commission](#)

[Link to an online copy of the latest newsletter from the City of San Antonio Veterans Affairs Commission \(VAC\)](#)

[Empowerment Zone Outreach](#)

Following the success of the March 28, 2003 kickoff at the Henry B. Gonzalez Convention Center, the City of San Antonio will host a series of community-wide Empowerment Zone Outreach Workshops.

Thursday, April 17, 2003	Kelly USA
Monday, April 28, 2003	Fredericksburg Road Corridor
Thursday, May 22, 2003	Westside Outreach
Monday, June 16, 2003	Central Business District
Wednesday, July 13, 2003	Eastside Outreach

The purpose of these events are to promote the city's Empowerment Zone designation and to educate citizens on the benefits and

opportunities associated with the Zone.

This program is open to all interested persons, free of charge. For more information or to register for upcoming events, please [click here](#).

[Convention Headquarters Hotel Project](#)

click on the above link for more information

EDD's Mission —————

"To lead economic development activities through policy implementation, strategic planning, and partnerships with key organizations"

The Economic Development Department (EDD) is the catalyst for shaping the City of San Antonio's future economy. With economic, social, and technological change calling for flexibility and adaptation, EDD has equipped itself to be a driving force for a thriving city, aggressively establishing an array of business assistance programs which serve as a vehicle for job creation, retention, and new investment. This focus is contained in the City's new [Strategic Plan for Enhanced Economic Development*](#), a blueprint for building a "new economy."

In response to recent events, Mayor Ed Garza, along with EDD and several City Departments, organized a [Blue Ribbon Commission on the Status of San Antonio's Economy*](#). The preceding link is a final draft of the community recommendations generated by the Blue Ribbon effort.

EDD has taken giant strides to further the growth of the city through major redevelopment projects, industry development, workforce development, and competitive business incentive packages. Specializing in business retention, expansion, and revitalization, EDD is available to provide assistance to new and existing businesses.

Businesses in San Antonio are driven by the positive economic climate the city boasts. A growing economy, a strong workforce, and an excellent living environment are just some of the reasons to do business in San Antonio. The opportunities for economic benefits to suit your business are many, and our goal is to minimize your efforts, expand your opportunities, and provide your business the best resources available.

* The document above is in PDF format and requires Acrobat Reader. Click [here](#) to download Acrobat Reader if you do not have it installed already.

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City of San Antonio
Economic Development Department

P.O. Box 839966
San Antonio, Texas 78283-3966
210.207.8080 Phone/TTY 210.207.8151 Fax

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City of San Antonio

Office of the City Attorney

Ethics Advisory Opinions

Requesting Advisory Opinions from the City Attorney's Office

Part H, Section 10(b)(1)(A) of the Ethics Code states:

By writing filed with the Office of the City Attorney, any city official or employee may request an advisory opinion with respect to whether proposed action by that person would violate the ethics laws.

Part H, Section 10(b)(2)(A) states:

A person who reasonably and in good faith acts in accordance with an advisory opinion issued by the Ethics Compliance Officer may not be found to have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

- (i) he or she requested the issuance of the opinion;
- (ii) the request for the opinion fairly and accurately disclosed all relevant facts; and
- (iii) less than five years elapsed between the date of the opinion was issued and the date of the conduct in question.

A person cannot obtain an advisory opinion regarding the application of the code to a third person. If a person has a concern that another individual has violated the Ethics Code, that person may consider whether it would appropriate to file an [ethics complaint](#).

The advisory opinions are posted on the city Web page, in a manner that does not reveal the identity of the person making the inquiry. You may call Helen Valkavich at the [City Attorney's Office](#) at 207-8940 if you have questions or need additional information.

Number	Date	Questions
001	Jan. 15, 1999	Whether the provisions of free office space by Yanaguana Cruises, Inc. to the San Antonio Parks Foundation whose Executive Director is a member of the Downtown Advisory Board and is the Co-Chair of the San Antonio River Oversight Committee presents conflicts or problems under the Ethics Code effective January 1, 1999
001	Jan 15, 1999	Whether the Executive Director of the San Antonio Parks Foundation is required to register as a lobbyist under the Ethics Code

<u>002</u>	Jan 21, 1999	Whether the Ethics Code of the City of San Antonio, effective January 1, 1999, applies to board members of the Alamo Workforce Development, Inc. ("AWD").
<u>003</u>	Feb. 8, 1999	Under what circumstances is a City Councilmember required to abstain from a matter involving a client of his/her client?
<u>004</u>	Feb. 22, 1999	May a State Representative appoint a San Antonio Municipal Court judge to serve on the Board of Directors of a Tax Increment Finance project that is brought forth by petition?
<u>005</u>	Feb. 23, 1999	Whether a trip to examine the day to day operations of a privatized airport facility may be paid by a potential bidder should the City Council agree to privatize the airport of the City of San Antonio and related question.
<u>006</u>	Feb. 23, 1999	May an individual whose firm does work for the San Antonio Water Systems and the City of San Antonio serve as a member of the Capital Improvements Advisory Board
<u>007</u>	Feb. 24, 1999	Whether an organization may pay a member of a commission that is more than advisory in nature from its various funding sources for services rendered.
<u>008</u>	Feb. 26, 1999	Whether a City employee serving on a Team for the Community Building and Neighborhood Planning Program may review applications for such program where he resides within the planning area of one of the applicants.
<u>009</u>	Mar. 9, 1999	Whether the San Antonio Housing Trust may request its board members who are also board members of the San Antonio Housing Trust Reinvestment Corporation to serve on the Board of Directors of a Tax Increment Finance project or, in the alternative, its employees or agents.
<u>010</u>	August 2, 1999	Whether a City employee and member of a City Commission may serve as Executive Director of the ABC Fund.
<u>011</u>	Mar. 8, 1999	Whether a City employee may serve on the board of directors of his neighborhood association.
<u>012</u>	Mar. 8, 1999	Whether a City employee may serve on the board of directors of a non-profit organization.

<u>013</u>	Mar. 11, 1999	Whether an organization may hire a member of a City of San Antonio Board to be the Executive Director of the organization.
<u>014</u>	Mar. 17, 1999	Whether the City of San Antonio may enter into a contract with a company which employs the stepson of a Department Director and related question.
<u>015</u>	Mar. 30, 1999	Whether a member of the Board of Adjustment may purchase houses from an individual who appears frequently before the Board.
<u>016</u>	Apr. 9, 1999	Whether a brother of a City official who is also a member of the Historic and Design Review Commission may participate in the San Antonio Bike Rack Design Competition.
<u>017</u>	Mar. 18, 1999	Whether, under the City of San Antonio Ethics Code, the Executive Director of the ABC Organization who is also a board member of one of the City's Advisory Committees may represent XYZ Neighborhood Association in its application for planning services under the Community Building and Neighborhood Planning Program and related questions.
<u>018</u>	Mar. 23, 1999	Under what circumstances is a City employee who serves on the Board of the Humane Society of Bexar County required to abstain from matters involving the Humane Society?
<u>019</u>	Mar. 22, 1999	Whether an individual whose company appears before the Board of Adjustment of the City of San Antonio may serve as a member of that Board.
<u>020</u>	Apr. 19, 1999	Whether a City employee in the Planning Department may act as lead staff or as a small group facilitator for a neighborhood planning effort where he resides within the planning area and whether the employee may participate in the neighborhood's planning efforts.
<u>021</u>	Apr. 19, 1999	Whether the Director of Finance may serve on the Board of a local non-profit organization that receive monies from Alamo Workforce Development, Inc.
<u>022</u>	May 24, 1999	Whether a City employee may accept honorariums or reimbursements of expenses incurred during volunteer activities.

<u>023</u>	May 19, 1999	Whether a City Councilmember may solicit potential sponsors for his book and related question.
<u>024</u>	June 4, 1999	Whether an employee who terminates his position with the City may accept employment with a company with which the City contracts to provide housekeeping and conversion services.
<u>025</u>	June 14, 1999	Whether a City employee may advertise as a Realtor in the City Beat.
<u>026</u>	June 16, 1999	Whether an individual who sits on the Greater Kelly Development Corporation may lobby members of the City Council.
<u>027</u>	June 21, 1999	Whether a City employee may submit a proposal to perform work for a company under contract with VIA Metropolitan Transit.
<u>028</u>	August 23, 1999	Whether a City employee may receive financing under the City's rental housing rehabilitation program and whether a former City employee may contract with the City to provide services.
<u>029</u>	July 27, 1999	Whether the City of San Antonio may employ the spouse or other relatives of a City Councilmember.
<u>030</u>	September 30, 1999	Whether City employees at the Carver Community Center may be employed by the Carver Development Board.
<u>031</u>	August 23, 1999	Whether a member of the zoning commission may accept employment with a political consultant for the Spurs.
<u>032</u>	August 27, 1999	Whether, upon termination with the City, an individual may provide engineering services to a company that plans to submit interest statements for capital improvement projects with the City of San Antonio.
<u>033</u>	September 14, 1999	Whether a City Councilmember's Administrative Aide may serve as a member of the Greater Kelly Development Corporation.
<u>034</u>	October 4, 1999	Whether a City Councilmember may serve as a member of the Greater Kelly Development Corporation. See Texas Attorney General Opinion JC-225 issued May 22, 2000 (reaching contrary conclusion)

<u>035</u>	October 6, 1999	Whether a member of the zoning commission who resides in the general vicinity of a proposed zoning change may participate in the discussion of and voting on said change.
<u>036</u>	October 25, 1999	Whether, upon termination with the City, an individual may provide consulting services to a company that provides parking equipment products, parts and services to the City of San Antonio.
<u>No. 37</u>	January 19, 2000	Whether members of the Zoning Commission and/or the Planning Commission may participate in mediating or contributing to the development of a property which has an application pending before the Commission.
<u>No. 38</u>	January 4, 2000	Whether an individual who serves as a member of the Zoning Commission and the City's Tax Phase-In Committee may be hired as an administrative aide to a City Councilmember.
<u>No. 39</u>	January 31, 2000	Whether a uniformed City employee may serve as City Manager for the City of Pleasanton.
<u>No. 40</u>	February 8, 2000	Whether the Chairperson of the Planning Commission must recuse himself from participating in a matter involving real property set to come before the Commission.
<u>No. 41</u>	March 24, 2000	Whether, upon termination with the City, an individual may be employed by a company providing consulting services to the City of San Antonio.
<u>No. 42</u>	April 17, 2000	Whether a member of the Historic and Design Review Commission may provide estimates to applicants coming before the Commission once they have completed the application process.
<u>No. 43</u>	April 26, 2000	Whether the employer of a member of the San Antonio Local Development Company who is also a former member of the Citizen Advisory Action Board may submit a bid for the private process service contract with the San Antonio Police Department.

<u>No. 44</u>	May 2, 2000	<p>Whether a member of the Planning Commission who is also a member of the Board of Appeals may serve on the Board of Trustees of the San Antonio Water System; and</p> <p>If appointed, whether a conflict of interest exists where the engineering firm that is owned by the member's brother and that employs his sister in law, a former SAWS employee, contracts with the SAWS.</p>
<u>No. 45</u>	July 3, 2000	Whether a City employee may contract with the City of San Antonio to provide maintenance for the trees at Espada Park.
<u>No. 46</u>	August 28, 2000	Whether the San Antonio Area Foundation may establish a scholarship in the name of a City Councilmember.
<u>No. 47</u>	September 18, 2000	Whether a former City Councilmember who is also a current City official may visit with City staff given his employment and positions.
<u>No. 48</u>	October 11, 2000	Whether a City employee who owns and operates a company may contract with an entity that has received funding through another City Department
<u>No. 49</u>	December 5, 2000	<p>Whether former City employees may communicate with current City employees; and</p> <p>Whether current City officials or employees are required to report possible violations of the Ethics Code, and, if not, the proper course of action in such situations.</p>
<u>No. 50</u>	March 20, 2001	Whether members of a Tax Increment Finance Board are required to file Financial Disclosure Forms pursuant to Part G of the Ethics Code of the City of San Antonio.
<u>No. 51</u>	February 5, 2001	Whether the company in which a member of the Planning Commission owns more than 10% may contract with various entities.
<u>No. 52</u>	March 26, 2001	Whether an Assistant Director of a City Department may serve on the Carver Development Board.
<u>No. 54</u>	May 7, 2001	Whether members of City boards and commissions who meet with City staff regarding project related issues are lobbying as that term is defined in the Ethics Code.

<u>No. 55</u>	May 18, 2001	Whether a City employee may serve on the Alameda Museum Board.
<u>No. 56</u>	December 14, 2001	Whether an employee of the Fire Department may contract with the City of San Antonio to sell uniform items.
<u>No. 57</u>	January 9, 2002	Whether a City employee may teach classes at local colleges and universities and related question.
<u>No. 58</u>	September 9, 2002	Whether the Neighborhood Action Department may provide funding to a former City official through its Environmental Protection Agency Brownfields grant funds
<u>No. 59</u>	April 29, 2002	Whether a member of a City Commission may promote an event sponsored by a client before the Commission and/or City staff providing support to the Commission.
<u>No. 60</u>	May 2, 2002	Whether a City employee may run for Fiesta Mud Queen
<u>No. 61</u>	May 9, 2002	Whether the employer of a commissioner on the San Antonio Housing Authority may contract with the SAHA under the Ethics Code of the City of San Antonio.
<u>No. 62</u>	May 13, 2002	Whether a business owned by a member of the GKDA may contract with the City of San Antonio.
<u>No. 63</u>	May 28, 2002	Whether an employee of the City who also serves as the Executive Director of Keep San Antonio Beautiful may attend meetings as the director on City time and other related question.
No. 64		Withdrawn.
<u>No 65</u>	May 30, 2002	Whether, upon termination with the City, an individual may provide consulting services to the City of San Antonio.
<u>No. 66</u>	September 9, 2002	May a director of the Small Business Economic Development Advocacy Advisory Committee (SBEDA) obtain a loan from San Antonio Local Development Company (SALDC)?
<u>No. 67</u>	September 9, 2002	Does the City Ethics Code permit a member of the City's Affirmative Action Advisory Committee to volunteer in a political campaign for a state office?

<u>No. 68</u>	September 17, 2002	May a former Director of the San Antonio Local Development Company (SALDC) sell a business to a buyer who seeks financing for the purchase from SALDC?
<u>No. 69</u>	September 18, 2002	Whether an employee of the Neighborhood Action Department can participate in City's Lead-Based Paint Program

Texas Administrative Code

TITLE 28 INSURANCE

PART 2 TEXAS WORKERS' COMPENSATION COMMISSION

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Local Schedule GR (3rd edition)

Retention Schedule for Records Common to All Local Governments

Effective November 1, 1995

Preface

This schedule establishes mandatory minimum retention periods for the records listed. No local government office may dispose of a record listed in this schedule prior to the expiration of its retention period. A records control schedule of a local government may not set a retention period for a record that is less than that established for the record on this schedule. The originals of records listed in this schedule may be disposed of prior to the expiration of the stated minimum retention period if they have been microfilmed or electronically stored pursuant to the provisions of the Local Government Code, Chapter 204 or Chapter 205, as applicable, and rules of the Texas State Library and Archives Commission adopted under authority of those chapters. Actual disposal of such records by a local government or an elective county office is subject to the policies and procedures of its records management program.

Destruction of local government records contrary to the provisions of the Local Government Records Act of 1989 and administrative rules adopted under its authority, including this schedule, is a Class A misdemeanor and, under certain circumstances, a third degree felony (Penal Code, Section 37.10). Anyone destroying local government records without legal authorization may also be subject to criminal penalties and fines under the Open Records Act (Government Code, Chapter 552).

Introduction

The Government Code, Section 441.158, provides that the Texas State Library and Archives Commission shall issue records retention schedules for each type of local government, including a schedule for records common to all types of local government. The law provides further that each schedule must state the retention period prescribed by federal or state law, rule of court, or regulation for a record for which a period is prescribed; and prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

Local Schedule GR sets mandatory minimum retention periods for records series that are usually found in all local governments, regardless of type. If the retention period for a record is established in a federal or state law, rule of court, or regulation, a citation to the relevant provision is given; if no citation is given, the authority for the retention period is this schedule.

The retention period for a record applies to the record regardless of the medium in which it is maintained.

Some records listed in this schedule are maintained electronically in many offices, but electronically stored data used to create in any manner a record or the functional equivalent of a record as described in this schedule must be retained, along with the hardware and software necessary to access the data, for the retention period assigned to the record, unless backup copies of the data generated from electronic storage are retained in paper or on microfilm for the retention period.

Unless otherwise stated, the retention period for a record is in calendar years from the date of its creation. The retention period, again unless otherwise noted, applies only to an official record as distinct from convenience or working copies created for informational purposes. Where several copies are maintained, each local government should decide which shall be the official record and in which of its divisions or departments it will be maintained. Local governments in their records management programs should establish policies and procedures to provide for the systematic disposal of copies.

If a record described in this schedule is maintained in a bound volume of a type in which pages are not designed to be removed, the retention period, unless otherwise stated, dates from the date of last entry.

If two or more records listed in this schedule are maintained together by a local government and are not severable, the combined record must be retained for the length of time of the component with the longest retention period. A record whose minimum retention period on this schedule has not yet expired and is less than permanent may be disposed of if it has been so badly damaged by fire, water, or insect or rodent infestation as to render it unreadable, or if portions of the information in the record have been so thoroughly destroyed that remaining portions are unintelligible. If the retention period for the record is permanent on this schedule, authorization to dispose of the damaged record must be obtained from the director and librarian of the Texas State Library. The Request for Authority to Destroy Unscheduled Records (form SLR 501) should be used for this purpose.

Requests for Authority to Destroy Unscheduled Records (SLR 501), whose submission to the director and librarian of the Texas State Library is required by the Local Government Code, Section 203.045, need not be filed for records shown as exempt from the requirement.

Certain records listed in this schedule are assigned the retention period of AV (as long as administratively valuable). This retention period affords local governments the maximum amount of discretion in determining a specific retention period for the record described. Although AV may be used as a retention period on a records control schedule of a local government, it is in the best interests of any records management program that fixed retention periods be assigned for each records series. AV records tend to accumulate and go unmanaged.

Circumstances occasionally dictate that the retention period for a record listed in this schedule be longer if it is maintained in a particular type of local government or documents a particular type of activity.

Consequently, if the retention period for a record on another commission schedule, issued for a particular type of local government or local government activity, is longer than that listed for the same record in this schedule, the longer retention period must be followed.

Use of Asterisk (*)

The appearance of an asterisk (*) before a record item number (or subitem number) or retention note indicates that either the record is new to this edition of Local Schedule GR or that the records description or retention period has been changed from the description or retention period that appeared in the 2nd edition of the schedule.

Abbreviations Used In This Schedule

AV - As long as administratively valuable

CE - Calendar year end

CFR - Code of Federal Regulations

FE - Fiscal year end

TAC - Texas Administrative Code

US - Until Superseded

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Part 1: Administrative Records

Section 1-1: Records of Governing Bodies

Retention Note: SCOPE OF SECTION - The retention periods established in this section also apply to the records of subsidiary boards, bureaus, commissions, or committees established by the governing body of a local government that have rulemaking or quasi-judicial authority over any activity or program of the government or that were established by ordinance, order, or resolution for the purposes of advising the governing body or a subsidiary body on policy. Consequently, the use of the term "governing body" in a records description includes the corresponding records of these subsidiary bodies.

1000-01 Agendas

- a) Open meetings. RETENTION: 2 years.
- b) Closed sessions. RETENTION: 2 years. [By law - Government Code, Section 551.104(a).]

1000-02 Dedications. RETENTION: PERMANENT.

1000-03 Minutes (the use of the term audio tape in (c)-(e) includes videotapes with sound).

- a) Written minutes. RETENTION: PERMANENT.
- b) Notes taken during meetings from which written minutes are prepared. RETENTION: 90 days after approval of minutes by the governing body. (Exempt from destruction request requirement)
- c) Audio tapes of open meetings, except as described in (d), for which written minutes are not prepared. RETENTION: PERMANENT.
- d) Audio tapes of workshop sessions of governing bodies in which votes are not made and written minutes are not required by law to be taken. RETENTION: 2 years.
- e) Audio tapes of open meetings for which written minutes are prepared. RETENTION: 90 days after approval of minutes by the governing body. (Exempt from destruction request requirement)
- f) Audio tapes of closed meetings. RETENTION: 2 years. [By law - Government Code, Section 551.104(a).]
- g) Supporting documentation - One copy of each document of any type submitted to a meeting of a governing body for consideration, approval, or other action; if such action is reflected in the minutes of the meeting. RETENTION: 2 years.

Retention Notes: a) The retention periods for many of the documents submitted to a governing body for action are established elsewhere in this or other commission schedules and are often longer than the 2-year retention period for supporting documentation set here. The 2-year retention requirement does not override a longer retention requirement set elsewhere, but rather is meant to ensure that all documents presented for action by a governing body are retained at least two years. This schedule does not require that supporting documentation be maintained together, but the retention by the clerk or secretary to the governing body of one

set of the documents submitted at each meeting (often called "council packets" in municipalities) for two years would ensure satisfaction of the minimum retention requirement. Clerks or secretaries to governing bodies should exercise caution in disposing of supporting documentation to avoid destruction of the record copy of a document for which they are custodian before the expiration of its retention period.

b) Review before disposal; some supporting documentation, not already required to be maintained permanently elsewhere in this or other commission schedules, may merit permanent retention for historical reasons.

1000-04 Open Meeting Notices. RETENTION: 2 years.

1000-05 Ordinances, Orders, Resolutions (including those that have been repealed, revoked, or amended). RETENTION: PERMANENT.

1000-06 Petitions: Petitions from the public to the governing body or subsidiary boards or commissions of a local government. RETENTION: Consideration of the petition + 2 years.

Retention Note: Does not include petitions noted elsewhere in this or other commission schedules or any petition presented to a commissioners court that state law requires a county clerk to record. See Local Schedule CC (Records of County Clerks).

1000-07 Proclamations. RETENTION: 2 years.

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Section 1-2: General Records

1000-20 Accident Reports - Reports of accidents to persons on local government property or in any other situation in which a local government could be party to a law suit.

a) Reports of accidents to adults. RETENTION: 5 years.

b) Reports of accidents to minors. RETENTION: 5 years; or 2 years after the minor reaches the age of 18, whichever later.

1000-21 Affidavits of Publication (including any accompanying clipping proofs or tear sheets)

a) Publication of municipal ordinances. RETENTION: PERMANENT

Retention Note: It is an exception to the permanent retention period that affidavits of publication and associated documentation for ordinances that are codified or re-codified may be disposed of after the effective date of the new code and are exempt from the destruction notice requirement.

b) Election notices.

1. Notices of election in which candidates for federal office are not involved. RETENTION: 60 days after election day. [By law - Election Code, Sections 4.005(d) and 66.058(a).] (Exempt from destruction request requirement)

2. Notices of election in which candidates for federal office are involved. RETENTION: 22 months after election day. [By law - Election Code, Sections 4.005(d) and 66.058(a).] (Exempt from destruction request requirement)

c) All other published legal notices. **RETENTION:** 2 years.

1000-22 Annexation, Disannexation, Abolition, and Other Jurisdictional Records - Records relating to the annexation or disannexation of territory to or from a local government, to its abolition, or to other actions which affect its territorial jurisdiction or service area, including reports, correspondence, records of public hearings, agreements, and similar records. **RETENTION:** 5 years.

Retention Notes: a) A contract or agreement relating to territorial jurisdiction or the delivery of services between two or more governments (e.g., between a city and a county for fire services in an unincorporated area) must be kept for the retention period in item number 1000-25.

b) Review before disposal; many records of this type may merit permanent retention for historical reasons.

1000-23 Charters. **RETENTION:** PERMANENT.

1000-24 Complaints - Complaints received from the public by a governing body or any officer or employee of a local government relating to government policy. **RETENTION:** Resolution or dismissal of complaint + 2 years.

Retention Note: The 2-year retention period applies only to complaints of a general nature that do not fall into a different category of complaint noted in this or other commission schedules. For example, complaints from the public about potential fire hazards are scheduled in Local Schedule PS (Records of Public Safety Agencies) and have a longer retention period.

1000-25 Contracts, Leases, and Agreements - Contracts, leases, and agreements, including reports, correspondence, performance bonds, and similar records relating to their negotiation, administration, renewal, or termination, except construction contracts (see item number 1075-16). **RETENTION:** 4 years after the expiration or termination of the instrument according to its terms.

1000-26 Correspondence and Internal Memoranda (includes incoming and copies of outgoing correspondence and internal correspondence and memoranda).

Retention Note: The minimum retention period for correspondence or internal memoranda in categories (a) and (b) directly linked to another record series or group listed in this or other commission schedules is that assigned to the other group or series. For example, a letter from an external auditor regarding an audit of a local government's financial records should be retained for the retention period given under item number 1025-01(e); a letter concerning a workers compensation claim should be retained for the period given under item number 1050-32, etc. The retention periods that follow are for correspondence and internal memoranda that do not readily fall within other record groups.

a) Policy and program development - Correspondence and internal memoranda pertaining to the formulation, planning, implementation, modification, or redefinition of the policies, programs, services, or projects of a local government. **RETENTION:** 5 years.

Retention Note: Review before disposal; some correspondence of this type may merit permanent retention for historical reasons.

b) Administrative - Correspondence and internal memoranda pertaining to or arising from the routine administration or operation of the policies, programs, services, and projects of a local

government. RETENTION: 2 years.

c) Routine - Correspondence and internal memoranda such as letters of transmittal, requests for publications, internal meeting notices, and similar routine matters. RETENTION: AV. (Exempt from destruction request requirement)

1000-27 Deeds (including title opinions, abstracts and certificates of title, title insurance, documentation concerning alteration or transfer of title, and similar records evidencing public ownership of real property). RETENTION: PERMANENT.

1000-28 Easements - Documentation relating to easements and rights-of-way for public works or other local government purposes, including releases. RETENTION: PERMANENT.

1000-29 Insurance Policies - Liability, theft, fire, health, life, automobile, and other policies for local government property and personnel, including supporting documentation relevant to the implementation, modification, renewal, or replacement of policies. RETENTION: 4 years after expiration or termination of the policy according to its terms.

1000-30 Legal Opinions - Legal opinions rendered by counsel for a local government or the Attorney General, including any written requests for opinions, concerning the governance and administration of a local government. RETENTION: PERMANENT.

1000-31 Litigation Case Files (including all cases to which a local government is a party unless the case file is of a type noted elsewhere in this or other commission schedules). RETENTION: AV after final disposition of the case. (Exempt from destruction request requirement)

Retention Note: Review before disposal; some case files may merit permanent retention for historical reasons.

1000-32 Minutes (Staff) - Minutes of internal staff meetings. RETENTION: AV. (Exempt from destruction request requirement)

1000-33 News Releases. RETENTION: AV. (Exempt from destruction request requirement)

1000-34 Open Records Requests - Open records requests, including correspondence and other documentation relating to the request. RETENTION: 1 year after final decision on request. (Exempt from destruction request requirement)

1000-35 Organizational Charts. RETENTION: Until superseded. (Exempt from destruction request requirement)

1000-36 Permits and Licenses - Records documenting the application for and the issuance of permits and licenses by a local government for sales, solicitation, facility usage, and similar activities. Does not include permits and licenses issued for the construction of or alterations to real property, for those relating to health and sanitation, or for those issued by police or fire departments listed in other commission schedules. RETENTION: Expiration, cancellation, revocation, or denial + 2 years.

1000-37 Photographs, Recordings, and Other Non-Textual Media - Photographs, photographic scrapbooks, slides, sound recordings, videotapes, posters, and other non-textual media that document the history and activities of a local government or any of its departments, programs, or projects except such records noted elsewhere in this or other commission schedules. RETENTION: PERMANENT, but see retention note.

Retention Note: Most photographs and other non-textual media of the types described must be retained permanently for historical reasons, but latitude is allowed to the records management

officer and the custodians of records in a local government to determine to what extent a particular photograph, for example, documents the history and activities of the local government. If it is determined that it does not, it need be kept only as long as administratively valuable. Be certain that photographs and other non-textual media do not fall within other records series. For example, mug shots and photographs of fire damage are listed in Local Schedule PS (Records of Public Safety Agencies) under police and fire department records respectively.

1000-38 Policy and Procedure Documentation - Executive orders, directives, manuals, and similar documents that establish and define the policies, procedures, rules, and regulations governing the operations or activities of a local government as a whole or any of its departments, programs, services, or projects. RETENTION: Until superseded + 5 years.

Retention Note: Review before disposal; some documentation of this type may merit permanent or long-term retention for historical or legal reasons.

1000-39 Publications - Pamphlets, reports, studies, proposals, and similar material printed by or for a local government or any of its departments, subdivisions, or programs and distributed to or intended for distribution to the public on request and departmental or program newsletters designed for internal distribution. RETENTION: One copy of each PERMANENT.

Retention Note: The following categories of printed material, whether distributed publicly or internally, are exempted from the retention period and may be disposed of at option; (a) educational or solicitative matter provided by charitable or public awareness organizations (e.g., United Way, American Heart Association); and (b) public service leaflets or flyers prepared by a local government or others whose contents are of a general nature and not specific to the government distributing them, beyond the inclusion of an address, telephone number, office hours, and similar information (e.g., a flyer detailing water conservation tips sent to customers of a municipal water utility; a pamphlet explaining the appraisal review board process sent to taxpayers by an appraisal district).

1000-40 Records Management Records

a) Records control schedules (including all successive versions of and amendments to schedules). RETENTION: PERMANENT.

b) Records destruction documentation - Records documenting the destruction of records under records control schedules, including requests submitted to the Texas State Library and Archives Commission for authorization to destroy unscheduled records or the originals of permanent records that have been microfilmed. RETENTION: PERMANENT.

c) Records inventories - Lists or inventories of the active and inactive records created or received by a local government. RETENTION: AV. (Exempt from destruction request requirement)

d) Records management plans and policy documents - Plans and similar documents establishing the policies and procedures under which a records management program operates. RETENTION: Until superseded + 5 years.

1000-41 Reports and Studies (Non-Fiscal)

a) Annual, sub-annual, or irregularly prepared reports, performance audits, or planning studies submitted to the governing body or chief administrative officer of a local government or by the

local government to a state agency, as may be required by law or regulation, on the non-fiscal performance of a department, program, or project or for planning purposes, including those prepared by consultants under contract with a local government, except documents of similar types noted in this or other commission schedules.

1. Annual reports. RETENTION: PERMANENT.

2. Special reports or studies prepared by order or request of the governing body or considered by the governing body (as reflected in its minutes) or ordered or requested by a state agency or a court. RETENTION: PERMANENT.

3. Special reports or studies prepared by order or request of the chief administrative officer. RETENTION: 5 years.

Retention Note: Review before disposal; many records of this type may merit permanent retention for historical reasons.

4. Monthly, bimonthly, quarterly, or semi-annual reports. RETENTION: 3 years.

b) Activity reports compiled on a daily or other periodic basis pertaining to workload measures, time studies, number of public contacts, etc., except reports of similar types noted in this or other commission schedules. RETENTION: 1 year. (Exempt from destruction request requirement)

1000-42 Waivers of Liability (including statements signed by volunteers acknowledging non-entitlement to benefits, agreeing to abide by local government policies, etc.). RETENTION: 3 years from date of cessation of activity for which the waiver was signed.

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Part 2: Financial Records

Retention Notes: a) AUDIT REQUIREMENTS - Most local governments are required by state law to conduct annual or biennial audits of their records and accounts. These audit requirements were taken into account in setting the retention periods in this schedule. The following retention rules also apply:

1. In any local government for which there is no statutory audit requirement and audits are conducted irregularly or in a local government in which a statutorily required audit is delayed, any record in this schedule whose retention period dates from the end of a fiscal year (FE) must be retained for the retention period stated or one year after audit, whichever later.

2. With regard to any special fund of a local government or elective county office for which there is no statutory audit requirement and the fund is not audited, any records listed under item numbers 1025-26, 1025-27, 1025-28, and 1025-30 associated with receipts and disbursements from or to the fund must be retained for FE + 10 years.

b) GRANT RECORDS - Subsections (1)-(3) apply to any local government, except school districts, receiving federal, state, or private grants; subsection (4) applies to school districts only.

1. Direct Federal Grants - This subsection applies to grants received by a local government directly from a federal grantor agency.

- i) Most federal grantor agencies require that grant-related records be retained for audit purposes for 3 years from the filing of expenditure reports. A few agencies, however, require a 5-year retention. Reference should be made to the specific terms of each grant to determine whether a 3-year or 5-year retention period is required and whether additional retention provisions apply.
- ii) In addition to item number 1025-08(a)-(b), financial and programmatic records of grant-funded projects, including copies or documentation of relevant accounting, banking, purchasing, and payroll records, and other documents and working papers associated with the financial and programmatic administration of the grant funds or used to prepare reports or forms required by federal law or regulation must be retained for the following periods:
 - A) For grants continued or renewed annually or at other intervals except quarterly - 3 or 5 years from the date of submission of the annual or other periodic expenditure report.
 - B) For grants continued or renewed quarterly - 3 or 5 years from the date of submission of the expenditure report for the last quarter of the federal fiscal year.
 - C) For grants for which the requirement of a final expenditure report has been waived - 3 or 5 years from the date the report would have been due.
 - D) For all other grants - 3 or 5 years from the date of submission of the final expenditure report.
- iii) The retention periods for the following types of records are exceptions to the periods noted above:
 - A) Records of non-expendable property or equipment acquired with grant funds - 3 or 5 years from the date of transfer, replacement, sale, or junking of the item.
 - B) Cost allocation plans and indirect cost records - 3 or 5 years from date of submission or, for plans prepared and retained by the grantee, from the close of the fiscal year covered by the plan.
 - C) Income records - 3 or 5 years from the end of the fiscal year in which the income is used.
- iv) If any litigation or audit commences before the expiration of the 3 or 5 year period, the records must be retained until all litigation or audit findings are resolved or until the end of the regular 3 or 5 year

period, whichever later.

v) If records are transferred to the grantor agency at its request, copies of the records need not be retained.

2. Indirect Federal Grants - This subsection applies to federal grants received as subgrants from state agencies or other local governments (e.g., regional councils of government).

The expenditure reports are submitted to the federal agency by the state or local subgrantor agency after all subgrantees have submitted reports to the subgrantor. Consequently, records under item number 1025-08(a)-(b) and records described in section (b)(1) must be retained by local government subgrantees for the following minimum retention periods:

i) For grant programs with a 3-year federal retention requirement - FE + 5 years.

ii) For grant programs with a 5-year federal retention requirement - FE + 7 years.

Copies of reports or records submitted to the subgrantor agency must be retained by the local government for the periods indicated.

3. State and Private Grants - This schedule extends the 3-year federal retention requirement described in section (b)(1) to state (excluding federal subgrants) and private grant records unless the state or private grantor agency has established different retention requirements, in which case those requirements shall prevail. It is an exception to the extension of federal grant requirements to state and private grants that for state or private grants renewed quarterly as described in section (b)(1)(ii)(B), the 3-year retention requirement runs from the date of submission of the expenditure report for the last quarter of the state fiscal year for state grants and from the last quarter of the local government's fiscal year for private grants.

4. Grant Records and School Districts (including Educational Service Centers) - See Local Schedule SD (Records of Public School Districts). Because of the difficulty of effectively separating financial data that evidence the expenditure of federal funds from those that document the expenditure of local or state-allocated funds, a 7-year retention period has been adopted for most financial records of school districts. The use of the term "school district" in this schedule includes educational service centers, county departments of education, and educational cooperatives.

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Section 2-1: Fiscal Administration and Reporting

1025-01 Audit Records (by both internal and external auditors).

a) Annual or biennial cumulative audit. RETENTION: PERMANENT.

- b) Annual, biennial, or other periodic audit of a department, program, fund, or account if included in a cumulative audit under (a). RETENTION: 2 years.
- c) Annual, biennial, or other periodic audit of a department, program, fund, or account if not included in a cumulative audit under (a). RETENTION: PERMANENT.
- d) Special audits ordered by a governing body, a court or grand jury, or mandated by administrative rules of a state or federal agency. RETENTION: PERMANENT.
- e) Working papers, summaries, and similar records created for the purposes of conducting an audit. RETENTION: 3 years after all questions arising from the audit have been resolved.

1025-02 Bank Security Records - Records documenting the pledging of bonds or securities by banks serving as depositories for public funds including depository contracts, security pledges and statements, surety bonds, and similar records. RETENTION: 4 years after termination, expiration, or release of contractual obligations.

1025-03 Bond Records (see retention note to item number 1025-09).

- a) Bond administrative records consisting of preliminary studies, proposals and prospectuses, authorizations and certifications for issuance or cancellation, and related policy correspondence. RETENTION: PERMANENT.
- b) Bond certificates and redeemed coupons. RETENTION: 1 year after payment. (Exempt from destruction request requirement) [By law - Civil Statutes, art. 717I-1 for counties (see statute for procedural instructions for destruction); by authority of this schedule for all other local governments.]
- c) Bond registers. RETENTION: PERMANENT.
- d) Records relating to the exchange, conversion, or replacement of bonds by bondholders. RETENTION: 1 year and exempt from destruction request requirement if information is contained in a bond register; PERMANENT, if information is not contained in a bond register.

1025-04 Budgets and Budget Documentation

- a) Annual budgets (including amendments). RETENTION: PERMANENT.
- b) Special budgets (includes budgets for capital improvement projects, grant-funded projects, or other projects prepared on a special or emergency basis and not included in an annual budget). RETENTION: PERMANENT.
- c) Working papers created exclusively for the preparation of budgets, including budget requests, justification statements, and similar documents. RETENTION: 2 years.
- d) Encumbrance and expenditure reports (status reports showing expenditures and encumbrances against a budget). RETENTION: 2 years.
- e) Budget change documentation, including line item or contingency/reserve fund transfers and supplemental budget requests. RETENTION: 2 years.

1025-05 Capital Assets Records - Documentation relating to the capital and fixed assets of a local government.

- a) Equipment or property history cards or similar records containing data on initial cost,

including disposal authorizations when disposed of. **RETENTION:** FE of date of disposal + 7 years for school districts; + 3 years for other governments.

b) Equipment or property cost and depreciation schedules or summaries used for capital outlay budgeting or other financial or budget control purposes. **RETENTION:** FE + 7 years for school districts; + 3 years for other governments.

c) Equipment or property inventories (including sequential number property logs). **RETENTION:** Until superseded + 3 years.

d) Property sale, auction, or disposal records of government-owned equipment or property. **RETENTION:** 1 year. (Exempt from destruction request requirement). [By law - Local Government Code, Section 263.155(b) for counties; by authority of this schedule for all other local governments.]

Retention Note: Property sale or auction records under (d) do not include records arising from the sale or auction of property foreclosed or seized by a taxing unit for failure to pay property taxes or for the sale or auction of property seized by law enforcement officers. For such records use Local Schedule TX (Records of Property Taxation) or Local Schedule PS (Records of Public Safety Agencies) respectively.

1025-06 Federal Revenue Sharing Records - Records concerning the use of federal revenue sharing funds by a local government, including revenue and expenditure summaries; status, budget, and audit reports; and other reports or documentation required by federal law or regulation. **RETENTION:** 3 years. [By regulation - 31 CFR 51.11(b), 51.12(c), and 51.108(a) and (d).]

1025-07 Financial Reports - Annual, sub-annual, or irregularly prepared financial reports or statements on the accounts, funds, or projects of a local government created either for internal use or for submission to state agencies as may be required by law or regulation, except reports of similar types noted in this or other commission schedules.

a) Monthly, bimonthly, quarterly, or semiannual reports. **RETENTION:** FE + 3 years.

b) Annual reports. **RETENTION:** PERMANENT.

c) Long range fiscal planning reports. **RETENTION:** PERMANENT.

d) Capital improvement reports. **RETENTION:** PERMANENT.

1025-08 Grant Development and Administrative Records

a) Successful grant applications and proposals and any documentation that modifies the terms of a grant. **RETENTION:** FE + 7 years for school districts; + 3, 5, or 7 years for other governments.

Retention Note: See note (b) at beginning of Part 2 of this schedule.

b) Financial, performance, and compliance reports submitted to grantor or subgrantor agencies. **RETENTION:** FE + 7 years for school districts; + 3, 5 or 7 years for other governments.

Retention Note: See note (b) at beginning of Part 2 of this schedule.

c) Reports, planning memoranda, studies, correspondence, and similar records created for and

used in the development of successful grant proposals. RETENTION: 3 years.

d) Any records of the type noted in (a) or (b) relating to unsuccessful grant proposals.

RETENTION: AV. (Exempt from destruction request requirement)

1025-09 Investment Transaction Records - Documentation relating to the investment of public funds (e.g., certificates of deposit) that evidences the investment of funds, the performance or return of investments, the cancellation or withdrawal of investments, and similar activity. RETENTION: FE + 7 years for school districts; + 5 years for other governments.

Retention Note: It is an exception to the retention period for this item that records of investments and the calculation of arbitrage rebate amounts (if any) on proceeds from the sale of tax exempt bonds must be retained for 6 years after the retirement of the last obligation of the bond issue.

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Section 2-2: Accounting Records

Retention Note: PAYROLL RECORDS - For records relating to the disbursement of payroll see Section 3-2.

1025-25 Accounting Policies and Procedures Documentation - Policy and procedure directives and similar records documenting accounting methodology. RETENTION: Until superseded + 5 years.

1025-26 Accounts Payable and Disbursement Record - Claims, invoices, statements, copies of checks and purchase orders, expenditure authorizations, and similar records that serve to document disbursements, including those documenting claims for and reimbursement to employees for travel and other employment-related expenses. RETENTION: FE of date of payment + 7 years for school districts; + 3 years for other governments, except for the following:

a) Accounts payable records sufficient to document the purchase costs of capital equipment or other fixed assets if capital asset documentation of the type noted under item number 1025-05(a) is not created. RETENTION: FE of date of disposal + 7 years for school districts; + 3 years for other governments.

b) Fund transmittal reports accompanying the transmittal of funds to federal, state, or other local government agencies (e.g., sales tax to the State Comptroller of Public Accounts), to retirement systems, or to other entities if the funds are collected in whole or in part on behalf of other agencies or individuals (e.g., retirement deductions of employees), except those accompanying the transmittal of federal and state payroll and unemployment taxes [see item number 1050-53(b)]. RETENTION: FE of period covered by report + 3 years.

1025-27 Accounts Receivable Records - Bill copies or stubs, statements, billing registers, account cards, deposit warrants, cash receipts, receipt books, cash transfers, daily cash reports, cash drawer reconciliations, and similar records that serve to document money owed to or received by a local government and its collection or receipt. RETENTION: FE of date of receipt + 7 years for school districts; + 3 years for other governments, except for the following:

a) Accounts receivable records documenting the receipt of any monies by any local government that are remittable to the State Comptroller of Public Accounts (e.g., court costs in criminal cases, sales tax). RETENTION: Remittance due date + 7 years for school districts; + 5 years for other governments.

- b) Account card or similar record documenting payments to a local government in which the government holds a property lien until the debt is satisfied (e.g., liens arising from demolition, lot cleaning), including original liens and lien releases. RETENTION: FE of date of final payment and release of lien + 3 years.
- c) Account card or similar record relating to the receipt of cash deposits as sureties for the delivery of services (e.g., water and wastewater). RETENTION: FE of termination of service or refund of deposit + 3 years.
- d) Records of accounts deemed uncollectable, including write-off authorizations. RETENTION: FE of write-off date + 7 years for school districts; + 3 years for other governments.

Retention Note: For accounts receivable records associated with the collection of property taxes, all local governments, including school districts, should use Local Schedule TX (Records of Property Taxation).

1025-28 Banking Records - Bank statements, canceled checks, check registers, deposit slips, debit and credit notices, reconciliations, notices of interest earned, etc. RETENTION: FE + 7 years for school districts; + 5 years for other governments.

1025-29 Cost Allocation and Distribution Record - Records created to document the allocation of costs among accounts and funds of a local government, including records relating to chargebacks and other interdepartmental or interfund accounting transactions. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

Retention Note: If any of the records in this group are used as ledger and journal entry documentation, they must be retained for FE + 5 years (see item number 1025-30) by all local governments.

1025-30 Ledgers, Journals, and Entry Documentation

Retention Note: Be certain to verify before the disposal of any ledger or journal under this item number that the ledger or journal does not serve to document financial activities that require a longer retention period (e.g. investment documentation of proceeds of tax exempt bonds under item number 1025-09).

a) General ledger showing receipts and expenditures from all accounts and funds of a local government.

1. For fiscal years for which an annual audit report (see item number 1025-01) exists. RETENTION: FE + 7 years for school districts; + 5 years for other governments.

Retention Note: Review before disposal; some ledgers may merit permanent retention for historical reasons.

2. For fiscal years for which an annual audit report (see item number 1025-01) does not exist. RETENTION: PERMANENT.

b) Subsidiary ledgers. RETENTION: FE + 7 years for school districts; + 5 years for other governments.

Retention Note: Review before disposal; some ledgers may merit permanent retention for historical reasons.

c) Receipt, disbursement, general, or subsidiary journals. RETENTION: FE + 7 years for school districts; + 5 years for other governments.

Retention Note: Review before disposal; some journals may merit permanent retention for historical reasons.

d) Journal vouchers and entries or similar posting control forms (including supporting documentation such as correspondence and auditor adjustments that evidence journal entries and amendments). RETENTION: FE + 7 years for school districts; + 5 years for other governments.

Retention Note: If bill stubs (see item number 1025-27) are used as entry documentation for account journals, they must be retained by all local governments other than school districts for FE + 5 years rather than the FE + 3 year retention period for accounts receivable records.

e) Perpetual care fund registers of municipally-owned cemeteries. RETENTION: PERMANENT. [By law - Health and Safety Code, Section 713.005(a).]

1025-31 Transaction Summaries - Periodic summaries or reports of accounting transactions or activity by department, budget code, program, account, fund, or type of activity, including trial balances, unless the summary is of a type noted elsewhere in this part.

- a) Daily. RETENTION: 30 days. (Exempt from destruction request requirement)
- b) Weekly. RETENTION: 90 days. (Exempt from destruction request requirement)
- c) Monthly, bimonthly, quarterly, or semiannual RETENTION: 2 years.
- d) Annual. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

Retention Note: If an annual trial balance is not maintained, then the least frequent sub-yearly trial balance must be retained for FE + 7 years by school districts and FE + 3 years by all other local governments.

1025-32 Unclaimed Property Documentation - Any form of record sufficient to verify information on unclaimed property previously reported to the State Treasurer showing the name and last known address of the apparent owner of reportable unclaimed property, a brief description of the property, and the balance of each unclaimed account, if appropriate. RETENTION: Date on which property is reportable + 10 years. [By law - Property Code, Section 74.103(b).]

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Part 3: Personnel and Payroll Records

Retention Notes: a) FEDERAL RETENTION REQUIREMENTS - Federal retention periods for personnel and payroll records arise principally from the administration of the Civil Rights Act of 1964, Title VII; the Age Discrimination and Employment Act of 1967; the Equal Pay Act; the Fair Labor Standards Act; the Federal Insurance Contribution Act; and the Federal Unemployment Tax Act. These acts are administered by various federal agencies or

departments of agencies and, because retention periods are set to enable each agency to carry out its particular oversight authority, different retention periods are often established for the same record. In compiling Schedule GR, the longest applicable federal retention period is cited as authority for the retention period indicated. A federal regulation is not cited if a state law or regulation requires a longer retention period. A federal retention period is also not cited if a Texas statute of limitations makes a longer retention period advisable. For example, the federal retention requirement for employment contracts [see item number 1050-15(a)] is given as 3 years from the last effective date of the contract in 26 CFR 516.5, but suits in Texas may be brought by either party to such a contract within four years of the occurrence of an alleged breach; therefore a retention period of 4 years from the last effective date of the contract is set in this schedule. All retention periods in this part apply, by authority of this schedule, to all local governments, although some of them may be otherwise exempt from the federal requirement cited. This provision does not require the creation by exempted local governments of any special documentation demonstrating compliance with federal regulations that may be required of non-exempted governments.

b) **PERSONNEL FILES** - The individual employee personnel file is not scheduled as a unit in this section; documents normally placed in such files are scheduled separately. Please note, however, that some information must be retained permanently [see item numbers 1050-12, 1050-52(b) and 1050-54(a)] on each employee.

c) **TERMINATED EMPLOYEES** - Notwithstanding any retention periods in this part, all personnel records existing on the date of termination of an involuntarily terminated employee must be retained for 2 years from the date of termination [29 CFR 1602.31, 1602.40, and 1602.49].

d) **JTPA AND CETA EMPLOYEES** - Any records maintained on applicants for or holders of positions paid in whole or in part from Comprehensive Employees' Training Act (CETA) funds or affirmative action apprenticeship program funds administered by the U. S. Department of Labor must be retained for 5 years from the date of enrollment in the program. [20 CFR 676.35(b) and 29 CFR 30.8(e)]. This 5 year retention period is extended by authority of this schedule to comparable records on applicants for or holders of positions paid in whole or in part from Job Training Partnership Act (JTPA) funds.

e) **DEFINITION OF EMPLOYEE** - For the purposes of this part, the term "employee" also includes elected or appointed officials of a local government who are paid wages or a salary from any funds of the local government.

f) **PERSONNEL RECORDS IN SHERIFF'S DEPARTMENTS IN CERTAIN COUNTIES** - The Local Government Code, Section 157.904, provides that sheriff's departments in counties with a population of 2,000,000 or more shall maintain "a permanent personnel file on each department employee." The precise contents of a personnel file are not specified, but three groups of records are expressly mentioned. Consequently, any record in item numbers 1050-03, 1050-07, and 1050-21, all of which are records of a type mentioned in the statute, must be retained permanently. What other records may be includable in a permanent personnel file in sheriffs' departments subject to the law should be determined by the sheriffs and their legal counsel.

Section 3-1: Personnel Records

1050-01 Affirmative Action Plans

- a) Reports, analyses, and statistical data compiled from source documentation used to develop, implement, and monitor affirmative action plans. RETENTION: 5 years. [By regulation - 29 CFR 30.8(e).]
- b) Affirmative action plans. RETENTION: Until superseded + 5 years. [By regulation - 29 CFR 30.8(e).]

1050-02 Aptitude and Skills Test Records - Records relating to aptitude or skills tests required of job applicants or of current personnel to qualify for promotion or transfer, including civil service examinations.

- a) Validation studies. RETENTION: Life of test + 2 years.
- b) Tests. RETENTION: Until superseded + 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

Retention Note: One copy of each different test (different in terms of either questions or administration procedures) should be retained for the period indicated.

- c) Test papers of persons taking tests. RETENTION: 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]
- d) Records, other than those noted (a)-(c), relating to the planning and administration of tests. RETENTION: 3 years.

1050-03 Awards and Commendations. RETENTION: Date of separation + 5 years.

1050-04 Certificates and Licenses - Certificates, licenses, or permits required of employees to qualify for or remain eligible to hold a position requiring certification or licensing. RETENTION: Until superseded or separation of employee + 5 years.

Retention Note: If the submission of copies of certificates, licenses, or permits is required of all applicants for a position, those of applicants not hired must be retained for 2 years under item number 1050-14.

1050-05 Conflict of Interest Affidavits. RETENTION: 5 years after leaving position for which the affidavit was filed.

1050-06 Counseling Program Files

- a) Reports of interviews, analyses, and similar records relating to the counseling of an employee for work-related, personal, or substance abuse problems. RETENTION: 3 years after termination of counseling.
- b) Records relating to the planning, coordination, implementation, direction, and evaluation of a employee counseling program. RETENTION: 3 years.

1050-07 Disciplinary and Adverse Action Records - Records created by civil service boards or by personnel or supervisory officers in considering, or reconsidering on appeal, an adverse action (e.g., demotion, probation, termination, suspension, leave without pay) against an employee, including, as applicable,

witness and employee statements, interview reports, exhibits, reports of findings, and decisions and judgments. **RETENTION:** 2 years after case closed or action taken, as applicable. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

1050-08 Employee Pension and Benefits Records [for records of pension and deferred compensation deductions from payroll see 1050-52(b)].

a) Employee benefit plans such as pension; life, health, and disability insurance; seniority and merit systems; and deferred compensation plans, including amendments. **RETENTION:** Termination of plan + 1 year. [By regulation - 29 CFR 1627.3(b)(2).]

Retention Note: If the plan or system is not in writing, a memorandum fully outlining the terms of the plan or system and the manner in which it has been communicated to affected employees, together with notations relating to any changes or revisions, must be retained for the same period as written plans.

b) Enrollment forms providing personal identifying data, beneficiary information, option selection, and similar information.

1.If the official record is maintained by the retirement system of which the local government is a member or by the service provider. **RETENTION:** AV. (Exempt from destruction request requirement)

2.If the official record is maintained by the local government.

A) Pension and deferred compensation. **RETENTION:** PERMANENT.

B) Life, health, and disability insurance. **RETENTION:** Termination of coverage + 4 years.

c) Annual reports from a pension system or fund. **RETENTION:** PERMANENT.

1050-09 Employee Recognition Records - Award committee reports, selection criteria, nominations, and similar administrative records of employee award or incentive programs. **RETENTION:** 2 years.

1050-10 Employee Security Records

a) Records created to control and monitor the issuance of keys, identification cards, passes, or similar instruments of identification and access. **RETENTION:** Until superseded, date of expiration, or date of separation + 2 years, as applicable.

b) Records relating to the issuance of parking permits. **RETENTION:** Until superseded. (Exempt from destruction request requirement)

1050-11 Employee Selection Records - Notes of interviews with candidates; audio and videotapes of job interviews; applicant rosters; eligibility lists; test ranking sheets; justification statements for violating eligibility or ranking sequence; background, criminal history, and previous injury checks; polygraph examination results; offers of employment letters; and similar records documenting the filling of a vacant position. **RETENTION:** 2 years from the creation (or receipt) of the record or the personnel action involved, whichever later. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

1050-12 Employee Service Record - Summary employment history record for each employee maintained on one or more forms, containing the following minimum information: name; sex; date of birth; social security

number; positions held with dates of hire, promotion, transfer, or demotion; dates of leaves of absence or suspension that affect computation of length of service; wage or salary rate for each position held, including step or merit increases within grades; and date of separation. [For other information on employees that must also be retained permanently either as part of this record or in another form, see item numbers 1050-52(b) and 1050-54(a)]. **RETENTION:** PERMANENT.

Retention Notes: a) This schedule does not require the creation of an employee service record of the type described, but the creation of the record is strongly recommended to allow frequent disposal of documents from which information has been summarized. If an employee service record is not maintained, documents (e.g., employment applications, personnel action forms) containing the prescribed information must be retained permanently. More than one document providing the same element of required information need not be retained.

b) The Teacher Service Record (Texas Education Agency Form FIN-115 or its equivalent), containing information required by statute or regulation, shall be considered an employee service record of the type described and must be retained permanently.

c) Salary or wage data on an employee service record may be indicated by grade and step numbers if all corresponding wage rate tables (see item number 1050-59) applicable to a person's employment history are retained permanently.

1050-13 Employment Advertisements or Announcements - Advertisements or postings relating to job openings, promotions, training programs, or overtime opportunities, including jobs orders submitted to employment agencies. **RETENTION:** 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

1050-14 Employment Applications - Applications, transcripts, letters of reference, and similar documents whose submission by candidates for vacant positions (both hired and not hired) or for promotion, transfer, or training opportunity (both selected and not selected) is required on the application form, by application procedures, or in the employment advertisement. **RETENTION:** 2 years from the creation (or receipt) of the record or the personnel action involved, whichever later, except the following: [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

a) Samples of publications, artwork, or other products of prior achievement not returned to applicants. **RETENTION:** AV. (Exempt from destruction request requirement)

b) Transcripts of persons hired if state or federal law or regulation mandates a level of education needed to qualify for employment (e.g., school district professional and paraprofessional personnel). See also item number 1050-28(a). **RETENTION:** Date of separation + 5 years.

Retention Note: If applicant screening or hiring decisions are based on resumes, with only successful or interviewed candidates completing employment applications, then resumes of persons not hired must be kept for the same period as employment applications. If resumes are supplemental to employment application forms, they need only be retained as long as administratively valuable.

1050-15 Employment Contract/Collective Bargaining Records

a) Contracts and agreements, including collective bargaining agreements, between a local government and an employee or a group of employees, including written acceptances of such contracts. **RETENTION:** Last effective date of contract + 4 years.

b) Records relating to the negotiation of collective bargaining agreements or similar group

contracts, including reports; correspondence; mediation or arbitration agreements; the proceedings, findings, and awards of arbitration boards; and similar records. **RETENTION:** Last effective date of contract + 4 years or, if no agreement or contract results, 4 years.

1050-16 Equal Employment Opportunity

a) Reports, analyses, or statistical data compiled from source documentation used to complete EEO reports. **RETENTION:** 3 years. [By regulation - 29 CFR 1602.30, 1602.39, and 1602.48.]

b) EE0-1, EEO-4, EE0-5, and EE0-6 reports. **RETENTION:** 3 years. [By regulation - 29 CFR 1602.32, 1602.41; and 1602.50.]

c) Case files relating to discrimination complaints, including complaints, legal and investigative documents, exhibits, related correspondence, withdrawal notices, and decisions or judgments. **RETENTION:** Resolution of case + 3 years.

1050-17 Equal Pay Records - Reports, studies, aggregated or summarized data, and similar documentation compiled to monitor and demonstrate compliance with the Equal Pay Act. **RETENTION:** 2 years. [By regulation - 29 CFR 1620.32(c).]

1050-18 Fidelity Bonds. **RETENTION:** Effective life of bond + 5 years.

Retention Note: Does not include the Official Bond Record maintained by county clerks, which must be retained permanently.

1050-19 Fingerprint Cards. **RETENTION:** Date of separation + 5 years.

Retention Note: If fingerprint cards are created for all applicants for a position, those of persons not hired must be retained 2 years under item number 1050-14.

1050-20 Grievance Records - Records relating to the review of employee grievances against personnel policies, working conditions, etc. **RETENTION:** 2 years.

Retention Note: Do not confuse these records with those involving EEO complaints [see item number 1050-16(c)].

1050-21 Job Evaluations (Performance Appraisals)

a) Evaluations of public school teachers, subject to the career ladder system, for the 1983-84 school year and subsequent years only. **RETENTION:** PERMANENT.

b) Evaluations of all other local government employees. **RETENTION:** Until superseded + 2 years. [By regulation - 29 CFR 1620.32(c).]

1050-22 Medical and Exposure Reports

a) Health or physical examination reports or certificates of all job applicants if physical condition is a factor in hiring decisions, including the promotion, transfer or selection for training of current personnel. **RETENTION:** 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

b) Health or physical examination reports or certificates of employees for whom periodic monitoring of health or fitness is required.

*1. For employees exposed in the course of their work to toxic substances, harmful

physical agents, or bloodborne pathogens. RETENTION: Date of separation + 30 years. [By regulation - 29 CFR 1910.20(d)(1)(i) and 1910-1030(h)(1)(iv).]

2. For all other employees. RETENTION: Until superseded + 2 years.

c) Environmental, biological, and material safety monitoring reports concerning toxic substances and harmful physical agents in the workplace, including analyses derived from such reports. RETENTION: 30 years. [By regulation - 29 CFR 1910.20(d)(1)(ii).]

1050-23 Oaths of Office. RETENTION: Until superseded + 5 years; or, 5 years after leaving position for which oath required, whichever applicable.

1050-24 Personnel Action or Information Notices - Documents used by personnel officers to create or change information in the personnel records of individual employees concerning hiring, termination, transfer, pay grade, position or job title, leaves of absence, name changes, and similar personnel actions except those noted elsewhere in this part. RETENTION: 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

1050-25 Personnel Studies and Surveys - Studies, statistical reports, surveys, cost analyses and projections, and similar records, except those noted elsewhere in this part, on any aspect of the personnel management or administration of a local government. RETENTION: 3 years.

Retention Note: Review before disposal; some documents may merit permanent retention for historical reasons.

1050-26 Position Description, Classification, and Staff Monitoring Records

a) Job descriptions, including any associated task or skill statements. RETENTION: Until superseded or position abolished + 4 years. [By regulation - 40 TAC 301.6(i).]

b) Documentation concerning the development and analysis of job descriptions and classification systems, including survey, review and audit reports; classification standards and guidelines; selection criteria, determination of classification appeals, etc., as follows:

1. Documents linked to a specific position. RETENTION: Dispose with job description under (a).

2. Survey, audit, or other reports issued on a regular basis. RETENTION: Until superseded + 4 years.

3. Other documentation not included in (b)(1) or (b)(2). RETENTION: PERMANENT.

c) Position staffing and vacancy reports. RETENTION: Until superseded. (Exempt from destruction request requirement)

d) Personnel requisitions. RETENTION: 2 years.

1050-27 Reduction in Force Plans (including any related implementation documentation). RETENTION: Until superseded, or if implemented, 2 years from date of last RIF action under the plan.

1050-28 Training and Educational Attainment Records (for other records relating to aptitude or skills tests required of job applicants or of current personnel to qualify for promotion or transfer see item number 1050-02).

a) Certificates of completion, transcripts, test scores, or similar records documenting the training, testing, or continuing education achievements of an employee if such training or testing is required for the position held or if the educational or skill attainment or enhancement affects or could affect career advancement in the local government or, in the case of licensed or certified personnel (e.g., school professionals, firefighters, police officers, health care professionals), in other governments or the private sector. **RETENTION:** Date of separation + 5 years.

Retention Note: If information concerning training or testing (e.g., test scores) is transferred to an Employee Service Record (item number 1050-12), the document from which the information is taken need be retained for only 2 years.

b) Records documenting the planning, development, implementation, administration and evaluation of in-house training programs. **RETENTION:** 3 years.

c) Training manuals, syllabuses, course outlines, and similar training aids used in in-house training programs. **RETENTION:** Until superseded. (Exempt from destruction request requirement)

d) Skill or achievement measurement records of a training group or class as a whole (e.g., rosters with scores). **RETENTION:** 2 years.

Retention Note: If the only information documenting the in-house training of an employee of the types described in (a) is contained in the measurement records of a group or class as a whole, the group records must be retained for the date of separation + 5 years for all employees included in the group records.

1050-29 Unemployment Compensation Claims Files - Unemployment claims, pertinent correspondence, and similar records documenting unemployment compensation cases. **RETENTION:** 5 years.

1050-30 Verification of Employment Eligibility (INS Form I-9). **RETENTION:** 3 years from hire or 1 year after separation, whichever later. [By regulation - 8 CFR 474a.2(b)(2)(i)(A) and (c)(2).]

Retention Note: If a former employee is rehired and an INS Form I-9 is still on file for the employee, the 3 year retention period dates< from date of first hire.

1050-31 Work Schedules - Work, duty, shift, crew, or case schedules, rosters, or assignments except work schedules includable in item number 1050-56. **RETENTION:** 1 year. (Exempt from destruction request requirement)

1050-32 Workers Compensation Claim Files - Initial and supplemental reports of accidents to or job-related illnesses of employees and documentation relating to any subsequent filing of claims by employees. **RETENTION:** 5 years. [By regulation - 29 CFR 1904.06 for accident and illness reports.]

1050-33 Financial Disclosure Statements - Financial disclosure statements of officers and/or employees of a local government. **RETENTION:** 2 years.

Retention Note: For campaign contribution and expenditure statements see item number 3125-01 in Local Schedule EL (Records of Elections and Voter Registration).

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Section 3-2: Payroll Records

Retention Note: OTHER ACCOUNTING RECORDS - This section supplements Section 2-2 and schedules financial and accounting records found in most local governments specific to the disbursement of payroll. If a payroll-related record is not scheduled in this section, use Section 2-2 for the comparable record; e.g., payroll fund reconciliations should be retained for FE + 3 years (or FE + 7 years in school districts) under the retention for Banking Records (see item number 1025-28).

1050-50 Deduction Authorizations - Documentation used to start, modify, or stop all voluntary or required deductions from payroll, including orders of garnishment or other court-ordered attachments. **RETENTION:** 4 years after separation or 4 years after amendment, expiration, or termination of authorization, whichever sooner.

1050-51 Direct Deposit Applications/Authorizations. **RETENTION:** Until superseded. (Exempt from destruction request requirement)

1050-52 Earnings and Deduction Records

a) A record containing the following payroll information on each employee: name, last known address and social security number; amount of wages paid to the employee for each payroll period, including all deductions, and date of payment. **RETENTION:** Retention of any one of the following records for 7 years by school districts or 4 years by other governments will satisfy the retention requirement: [By regulation - See Local Schedule SD for school districts; 20 CFR 404.1225(b)(3) and 40 TAC 301.6(a) and (i) for other governments.]

1. Individual employee earnings card or record that shows earnings and deductions for each pay period.

2. Master payroll register which shows earnings and deductions for each pay period.

b) A record containing the following minimum pension and deferred compensation information on each employee: name, date of birth, social security number, and amount of pension and deferred compensation deductions. **RETENTION:** PERMANENT retention of any one of the following will satisfy the retention requirement:

1. Individual employee earnings card or record as in (a)(1).

2. Employee Service Record (see item number 1050-12) if it contains the prescribed pension and deferred compensation deduction data.

3. Master payroll register, or the final year-to-date register of each calendar year, if the register shows all persons employed during the year from whose wages pension and deferred compensation deductions were made.

4. Pension and deferred compensation deduction register, or the final year-to-date pension deduction register of each calendar year, if the register lists all persons employed during the year from whose wages pension and deferred compensation deductions were made.

5. Copies of annual or other periodic statements furnished to each employee detailing the deductions and contributions to a pension or deferred compensation plan during the past year or period.

- c) Master payroll register, including year-to-date registers, if not used to satisfy either of the retention requirements set in (a) or (b). RETENTION: FE + 3 years.
- d) Subsidiary payroll registers, if not used to satisfy either of the retention requirements set in (a) or (b).
 - 1.If data contained in the subsidiary payroll register is not contained in the master payroll register. RETENTION: FE + 3 years.
 - 2.If data contained in the subsidiary payroll register is contained in the master payroll register. RETENTION: AV. (Exempt from destruction request requirement)
- e) Copies of annual or other periodic statements furnished to each employee detailing the deductions and contributions to a pension or deferred compensation plan during the past year or period, if not used to satisfy the retention requirement set in (b). RETENTION: 2 years.
- f) Payroll adjustment records, including transaction registers, authorizations, and similar records authorizing and detailing adjustments to payroll records because of overpayment, underpayment, etc. RETENTION: FE + 7 years for school districts; + 3 years for other> governments.

1050-53 Federal and State Tax Forms and Reports

- a) Forms used to determine withholding from wages and salaries for payroll tax purposes. RETENTION: 4 years after separation or 4 years after form amended, whichever sooner. [By regulation - 20 CFR 404.1225(b)(3), 26 CFR 31.6001-1(e)(2) for federal forms and by authority of this schedule for any state forms.]
- b) Forms and reports used to report the collection, distribution, deposit, and transmittal of payroll or unemployment taxes. RETENTION: 4 years after tax due date or date tax paid, whichever later. [By regulation - 20 CFR 404.1225(b)(3), 26 CFR 31.6001-1(e)(2) for federal forms and by authority of this schedule for state forms.]

1050-54 Leave Records

- a) A record containing a record of the unused accumulated sick leave of each employee if (1) all or a percentage of accumulated sick leave is used to calculate length of service and/or (2) accumulated sick leave is creditable to an employee if rehired. RETENTION: PERMANENT retention of any one of the following will satisfy the retention requirement:
 - 1.Individual employee earnings card or record as described in item number 1050-52(a) if it also contains accumulated sick leave data.
 - 2.Employee Service Record (see item number 1050-12) if it contains the accumulated sick leave data prescribed.
 - 3.Copy of the final time summary or leave status report, as noted in (d), of each separated employee.
- b) Requests and authorizations for vacation, compensatory, sick and other types of authorized leave. RETENTION: FE + 3 years.
- c) Leave or hours-to-date registers. RETENTION: FE + 3 years.

d) Copies of periodic time summary or leave status reports furnished to each employee containing information on vacation, sick, compensatory, or other leave earned and used, including the final report of separated employees if they are not used to satisfy the retention requirement set in (a). RETENTION: 2 years.

1050-55 Payroll Action or Information Notices - Documents used by payroll officers to create or change information in the payroll records of individual employees except deduction authorizations (see item number 1050-50) and federal tax forms [see item number 1050-53(a)].

a) Documents concerning hiring, termination, transfer, pay grade, position or job title, name changes, etc. RETENTION: 2 years. [By regulation - 29 CFR 1602.31, 1602.40, and 1602.49.]

b) Documents concerning adjustments to payroll and leave status. RETENTION: FE + 3 years.

1050-56 Time and Attendance Reports - Time cards or sheets, including work schedules and documentation evidencing adherence to or deviation from normal hours for those employees working on fixed schedules. RETENTION: 4 years. [By regulation - 40 TAC 301.6(a) and (i).]

1050-57 Time Change Records - Requests and authorizations for overtime, time trading, and other actions that affect normal work time except leave requests [see item number 1050-54(c)]. RETENTION: 2 years.

1050-58 Requests and Authorizations to Engage in Reimbursable Activities - Requests and authorizations for travel; participation in educational programs, workshops, or college classes; or for other bona fide work-related activities in which the expenses of an employee are defrayed or reimbursed. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

1050-59 Wage and Salary Rate Tables

a) If wage or salary rate for each position listed on an Employee Service Record (see item number 1050-12) is expressed in dollars. RETENTION: 2 years after last effective date. [By regulation - 29 CFR 516.6(a)(2).]

b) If wage or salary rate for each position listed on an Employee Service Record (see item number 1050-12) is indicated by grade or step number only. RETENTION: PERMANENT.

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Part 4: Support Services Records

Section 4-1: Purchasing Records

Retention Notes: RELATIONSHIP WITH ACCOUNTS PAYABLE RECORDS - In a local government in which purchasing and accounts payable records (see item number 1025-26) are maintained by the same individual or department, duplicate copies of a record need not be created and/or retained to satisfy the retention requirements of this section if the record is used in documenting both the ordering and procurement of and payment for goods and services. In such instances, retention requirements for accounts payable records prevail over those noted in this section.

1075-01 Bids and Bid Documentation

*a) Successful bids and requests for proposals, including invitations to bid, bid bonds and affidavits, bid sheets, and similar supporting documentation. RETENTION: FE of award + 7 years for school districts; + 3 years for other governments.

Retention Note: If a formal written contract is the result of a successful bid or request for proposal, the successful bid or request for proposal and its supporting documentation must be retained for the same period as the contract. See item number 1000-25.

b) Unsuccessful bids. RETENTION: 2 years.

c) Informal bid records, such a requests for quotations or estimates, for the procurement of goods or services for which state law or local policy does not require the formal letting of bids. RETENTION: 1 year. (Exempt from destruction request requirement)

1075-02 Inventory Records (Parts and Supplies). RETENTION: 1 year. (Exempt from destruction request requirement)

1075-03 Purchase Order and Receipt Records

a) Purchase orders, requisitions, and receiving reports. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

b) Purchasing log, register, or similar record providing a chronological record of purchase orders issued, orders received, and similar data on procurement status. RETENTION: FE + 3 years.

c) Packing slips and order acknowledgments. RETENTION: AV. (Exempt from destruction request requirement)

d) Vendor and commodity lists. RETENTION: Until superseded. (Exempt from destruction request requirement)

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Section 4-2: Facility, Vehicle, and Equipment Management Records

1075-15 Accident and Damage Reports (Property) - Reports of accidents or damage to facilities, vehicles, or equipment if no personal injury is involved. RETENTION: 3 years.

Retention Note: For accident reports involving personal injury see item numbers 1000-20 and 1050-32.

1075-16 Construction Project Files - Records concerning the planning, design, construction, conversion, or modernization of local government-owned facilities, structures, and systems, including feasibility, screening, and implementation studies; topographical and soil surveys and reports; architectural and engineering drawings, elevations, profiles, blueprints, and as-builts; inspection and investigative reports; laboratory test reports; environmental impact statements; construction contracts and bonds; correspondence; and similar documentation. RETENTION: PERMANENT, but see retention note.

Retention Note: Files relating to the construction of prefabricated storage sheds, bus shelters,

parking lot kiosks, non-structural recreational facilities such as baseball diamonds and tennis courts, and similar structures and facilities need be retained for only 10 years after completion of the project.

1075-17 Lost and Stolen Property Reports. RETENTION: FE + 3 years.

1075-18 Maintenance, Repair, and Inspection Records - Records documenting the maintenance, repair, and inspection of facilities, vehicles, and equipment.

Retention Note: This record group schedules records of maintenance and repair to general-purpose vehicles, office equipment, and office facilities. For retention requirements for the maintenance and repair of specialized vehicles (e.g., police cars, fire trucks, school buses), equipment (e.g., airport runway beacons, traffic lights), or facilities (e.g., wastewater treatment plants) see other commission schedules.

a) Vehicles and equipment.

1. Routine inspection records. RETENTION: 1 year. (Exempt from destruction request requirement)

2. Maintenance and repair records. RETENTION: Life of asset.

Retention Note: If a vehicle is junked as the result of an accident, the maintenance and repair records for the vehicle must be retained for LA + 3 years.

b) Facilities.

1. Routine cleaning, janitorial, and inspection work. RETENTION: 1 year. (Exempt from destruction request requirement)

2. All other facility maintenance, repair and inspection records (including those relating to plumbing, electrical, fire suppression, and other infrastructural systems). RETENTION: 3 years.

1075-19 Service Requests/Work Orders (for repairs and maintenance to facilities, vehicles, or equipment). RETENTION: 2 years.

Retention Note: If work orders serve as the only form of record documenting repairs to vehicles or equipment [see item number 1075-18(a)] they must be retained for the life of the vehicle or equipment.

1075-20 Usage Reports - Reports of usage of facilities, vehicles, and equipment.

a) Any type of usage report (e.g., mileage, fuel consumption, copies run) if such reports are the basis for allocating costs, for determining payment under rental or lease agreements, etc. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

b) Reservation logs or similar records relating to the use of facilities such as meeting rooms, auditoriums, etc. by the public or other governmental agencies. RETENTION: 2 years.

c) Usage reports compiled for purposes other than those noted in (a) or (b). RETENTION: 1 year. (Exempt from destruction request requirement)

1075-21 Vehicle Assignment Records - Assignment logs, authorizations, and similar records relating to the

assignment and use of government-owned vehicles by employees. RETENTION: 2 year.

1075-22 Visitor Control Registers - Logs, registers, or similar records documenting visitors to limited access or restricted areas. RETENTION: 3 years.

1075-23 Warranties (for vehicles and equipment). RETENTION: Expiration of warranty + 1 year. (Exempt from destruction request requirement)

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Section 4-3: Communications Records

1075-40 Postal and Delivery Service Records

a) Meter and permit usage records. RETENTION: 1 year. (Exempt from destruction request requirement)

b) Registered, certified, insured, and special delivery mail receipts and similar records of transmittal by express or delivery companies. RETENTION: 1 year.

1075-41 Telephone Logs or Activity Reports - Registers or logs of telephone calls made and similar telephone activity reports.

a) If the log, report, or similar record is used for cost allocation purposes. RETENTION: FE + 7 years for school districts; + 3 years for other governments.

b) If the log, report, or similar record is used for internal control purposes other than cost allocation. RETENTION: 2 years.

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***Section 4-4: Workplace Safety Records**

***5750-01** Bloodborne Pathogen Training Records - Records of training given employees with exposure to bloodborne pathogens showing the dates of training sessions, contents or summaries of the sessions, names and job titles of those who received training, and names and qualifications of instructors. RETENTION: 3 years. [By regulation - 29 CFR 1910.1030(h)(2)(ii).]

***5750-02** Facility Chemical Lists - Copies of tier two forms containing information of hazardous chemicals present in local government facilities submitted to the fire chief of the fire department having jurisdiction over the facilities and to the Texas Department of Health as required by Health and Safety Code, Section 506.006. RETENTION: Until superseded. (Exempt from destruction request requirement)

***5750-03** Hazard Communication Plans - Plans describing how criteria of the Hazard Communications Act (Chapter 502, Health and Safety Code) with regard to the education and training of employees will be met. RETENTION: Until superseded + 5 years. [By law - Health and Safety Code, Section 502.009(g).]

***5750-04** Hazardous Materials Training Records - Records of training given employees in a hazard communications program showing the date of each training session, subjects covered during the session, rosters of employees who attended, and the names of instructors. RETENTION: 5 years. [By law - Health and Safety Code, Section 502.009(g).]

***5750-05 Material Safety Data Sheets (MSDS) -** Material safety data sheets (MSDS) supplied to local government employers by manufacturers or distributors of hazardous chemicals. **RETENTION:** AV after receipt of updated sheet or the hazardous chemical is no longer present in the local government, as applicable. (Exempt from destruction request requirement)

***5750-06 Workplace Chemical Lists -** Lists of hazardous chemicals, including superseded lists, compiled and maintained by local governments in accordance with the Health and Safety Code, Section 552.005. **RETENTION:** 30 years. [By law - Health and Safety Code, Section 502.005(d).]

Retention Note: State law (Health and Safety Code, Section 502.005(d)) provides that if a local government is dissolved (e.g., a municipality through disincorporation), it shall send the workplace chemical lists in its possession to the director of the Texas Department of Health.

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***Part 5: Electronic Data Processing Records**

***Retention Notes:**

(a) This part establishes retention periods for records essential to the creation, maintenance, and use of electronic records (information recorded in a form for computer processing including data, graphics, digital images, multi-media records, etc.) and records related to computer operations/technical support not covered elsewhere in this schedule. Records in this part may be maintained on whatever medium is appropriate including electronic (on-line, magnetic tape, optical disk, CD-ROM, etc.), paper, and microform.

(b) Other types of records may be maintained electronically that are listed elsewhere in this schedule, such as administrative, fiscal, personnel, and support services records, or in other specialized schedules adopted by the Texas State Library and Archives Commission, such as Local Schedule PS (Records of Public Safety Agencies), Local Schedule HR (Records of Public Health Agencies), etc. The retention period for those electronic records will be as specified under the appropriate records series item number according to the function of the information. For example, if an electronic system is used to maintain encumbrance and expenditure reports, the retention period for these electronic records would be 2 years as specified in item number 1025-04(d). Retention requirements apply to records maintained on all types of electronic systems including mainframe, minicomputer, microcomputer, local-area-network based systems, etc.

c) Administrative rules of the Texas State Library and Archives Commission (13 TAC 7.71-7.79) require that retention procedures for electronic records with an approved retention of 10 years or more must include provisions for scheduling the disposition of the electronic records as well as related software, documentation, and indexes; and for regular recopying, reformatting, and other necessary maintenance or conversion activities to ensure the retention and stability of electronic records until the expiration of their retention periods.

d) If automated information is copied to paper or microform to create the official record, the electronic files do not have to be maintained for the full retention period of the record. The added value of electronic files for facilitating retrieval, making queries, providing for automated audit trails, etc., should be carefully reviewed prior to destruction of the electronic files even though there is an official record in another medium.

Section 5-1: Records of Automated Applications

***5800-01** Audit Trail Records - Files needed for electronic data audits such as files or reports showing transactions accepted, rejected, suspended, and/or processed; history files/tapes; records of on-line updates to application files or security logs. RETENTION: Until audit requirements met.

***5800-02** Finding Aids, Indexes, and Tracking Systems - Automated indexes, lists, registers, and other finding aids used to provide access to the hard copy and electronic records. RETENTION: Until the related hard copy or electronic records have been destroyed. [By regulation - 13 TAC 7.77(a) for electronic records with an approved retention of 10 years or more, and by authority of this schedule for all others.]

***5800-03** Hardware Documentation - Records documenting operational and maintenance requirements of computer hardware such as operating manuals, hardware/operating system requirements, hardware configurations, and equipment control systems. RETENTION: Until electronic records are transferred to and made usable in a new hardware environment or there are no electronic records being retained to meet an approved retention period that require the hardware to be retrieved and read. [By regulation - 13 TAC 7.77(a) for electronic records with an approved retention of 10 years or more, and by authority of this schedule for all others.]

Retention Note: If the retention period of electronic records is extended to meet requirements of an audit, litigation, open records action, etc. any hardware documentation required to retrieve and read the records must also be retained for the same period.

***5800-04** Master Files - Relatively long-lived computer files containing organized and consistent sets of complete and accurate electronic records. RETENTION: Until completion of 3rd system backup cycle except for: a) Electronic file which replaces or serves in lieu of a textual record - Follow the retention period approved for the equivalent textual record; b) Electronic file containing fiscal information, for which an equivalent textual record exists, but which is also subject to audit - Dispose of after all audit questions have been resolved; c) Output data file extracted from system solely to distribute data to individuals or program units for reference and use or to produce printed reports or other publications - Dispose of after data is distributed or when no longer needed to create publication. [By regulation - 13 TAC 7.77(a) for electronic records with an approved retention of 10 years or more, and by authority of this schedule for all others.]

Retention Note: The need to retain "snapshots" of some continuing master files should be carefully evaluated. For example, if a Geographic Information System has only current mapping information, historical versions of zoning changes would not be available even though these records have long-term legal and historical value.

***5800-05** Processing Files - Electronic files used to produce a master file, including, but not limited to, work files, maintenance and test files, print files, and intermediate input/output records. RETENTION: Until completion of 3rd system backup cycle except for: a) Routine or benchmark file used to test system performance - AV and exempt from destruction notice requirement; b) File which facilitates processing of a particular job or system run, but which does not add to, delete from, or substantially modify information in a master file - AV and exempt from destruction notice requirement.

***5800-06** Software Programs - Automated software applications and operating system files including job control language, program listing/source code, etc. RETENTION: Until electronic records are transferred to and made usable in a new software environment or there are no electronic records being retained to meet an

approved retention period that require the software to be retrieved and read. [By regulation - 13 TAC 7.77(a) for electronic records with an approved retention of 10 years or more, and by authority of this schedule for all others.]

Retention Note: If the retention period of electronic records is extended to meet requirements of an audit, litigation, open records action, etc. any software program required to retrieve and read the records must also be retained for the same period.

***5800-07 Source Documents for Electronic Records-** Documents used for the creation of electronic records by data entry or electronic imaging. **RETENTION:** Follow the retention period approved for the type of record but see the retention notes. [By law - Local Government Code, Section 205.008.]

Retention Notes: a) For records with an approved retention period of 10 years or more, the source document may be destroyed or returned to the person who filed it after the creation of the electronic record if an electronic storage authorization has been approved based on certification of compliance with the Standards and Procedures for Electronic Records of Local Governments (13 TAC Chapter 7).

b) For records with an approved retention of less than 10 years, the source document may be destroyed prior to the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the medium are retained for the retention period given in the schedule.

***5800-08 Technical Documentation -** Records adequate to specify all technical characteristics necessary for reading or processing of electronic records and their timely, authorized disposition including documentation describing how a system operates and necessary for using the system such as user guides, system or sub-system definitions, system specifications, input and output specifications, and system flow charts; program descriptions and documentation such as program flowcharts, program maintenance logs, change notices, and other records that document modifications to computer programs; and data documentation necessary to access, retrieve, manipulate and interpret data in an automated system such as a data element dictionary, file layout, code book or table, and other records that explain the meaning, purpose, structure, logical relationships, and origin of the data elements. **RETENTION:** Until electronic records are transferred to and made usable in a new hardware or software environment with new documentation or there are no electronic records being retained to meet an approved retention period that require the documentation to be retrieved and read. [By regulation - 13 TAC 7.77(a) for electronic records with an approved retention of 10 years or more, and by authority of this schedule for all others.]

Retention Note: If the retention period of electronic records is extended to meet requirements of an audit, litigation, open records action, etc. any technical documentation required to retrieve and read the records must also be retained for the same period.

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Section 5-2: Computer Operations and Technical Support Records

Retention Note: Not all of the following types of records will be created with all electronic systems. A local government should determine which records are needed according to the type of computer operation in use (mainframe, individual personal computers, networked personal computers, etc.). The records in this section may be maintained electronically (on-line,

magnetic tape, optical disk, etc.) or on another medium such as paper or microform provided the approved retention period is met.

***5825-01 Access Security Records** - Records created for security purposes to control or monitor individual access to a system and its data, including but not limited to user account records, security login information, and password files. **RETENTION:** Until the individual no longer has access to the system or audit requirements for the records modified by the individual have been met, whichever later.

***5825-02 Batch Data Entry Control Records** - Forms and logs used to reconcile batches submitted for processing against batches received and processed. **RETENTION:** AV. (Exempt from destruction request requirement)

***5825-03 Chargeback Records to Data Processing Services Users** - Records used to document, calculate costs and bill program units for computer usage and data processing services. These records are also used for cost recovery, budgeting, or administrative purposes. **RETENTION:** FE + 7 for school districts; FE + 3 years for other governments.

***5825-04 Computer Job Schedules and Reports** - Schedules or similar records showing computer jobs to be run and other reports by computer operators or programmers of work performed. **RETENTION:** 90 days. (Exempt from destruction request requirement)

***5825-05 Data Processing Policies and Procedures** - Records of data processing policies and procedures including those covering access and security, systems development, data retention and disposition, and data ownership. Records of procedures for data entry, operation of computer equipment, production control, system backup, compliance with electronic records rules, etc. Does not include technical documentation of procedures necessary for reading or processing of electronic records (see item number 5800-08). **RETENTION:** 5 years after policy or procedure is withdrawn, revised, updated, or superseded.

Retention Note: Review before disposal; some documentation of this type may merit permanent or long-term retention for historical or legal reasons.

***5825-06 Data Processing Planning Records** - Reports, studies, analyses, projections, and similar records concerning the creation, development, or modification of data processing systems and services except for disaster recovery plans (see item number 5825-07). **RETENTION:** 5 years.

Retention Note: Before disposal appraise for continuing administrative usefulness and historical value. Those records relating to major development projects and other records considered of historical value should be retained permanently.

***5825-07 Disaster Preparedness and Recovery Plans** - Records related to the protection and re-establishment of data processing services and equipment in case of a disaster. **RETENTION:** Until superseded. (Exempt from destruction request requirement)

***5825-08 Electronic Media Library System Files** - Records used to control the location, maintenance, and disposition of media in an electronic media library except for records destruction documentation that is maintained permanently (see item number 1000-40). **RETENTION:** Until related records or media are destroyed or withdrawn from the library.

***5825-09 Input Documents** - Copies of records or forms designed and used solely for data input and control when the data processing unit provides centralized data input services and original records are maintained by the program unit except for data entry documents noted elsewhere in this schedule or other schedules adopted by the commission. **RETENTION:** Until all data has been entered into the system and, if required, verified. (Exempt from destruction request requirement)

***5825-10 Network Circuits Inventory** - Records containing information on network circuits used by the government including circuit number, vendor, type of connection, terminal series, software, contact person, and other relevant information about the circuit. RETENTION: Until superseded. (Exempt from destruction request requirement)

***5825-11 Network Implementation Files** - Records used to implement a computer network including reports, diagrams of network, and wiring schematics. RETENTION: Until superseded. (Exempt from destruction request requirement)

***5825-12 Operating System and Hardware Conversion Plans** - Records relating to the replacement of equipment or computer operating systems not included elsewhere in this schedule. RETENTION: 1 year after completion of conversion.

***5825-13 Output Records for Computer Production** - Reports showing transactions that were accepted, rejected, suspended, and/or processed. RETENTION: AV. (Exempt from destruction request requirement)

***5825-14 Quality Assurance Records** - Information verifying the quality of system, hardware, or software operations including records of errors or failures and the loss of data resulting from such failures, documentation of abnormal termination and of error free processing, checks of changes put into production, transaction histories, and other records needed as an audit trail to evaluate data accuracy. RETENTION: Until no longer needed as an audit trail for records modified.

***5825-15 Project Files** - Records created and used in the development, redesign, or modification of automated systems or applications.

Retention Note: Does not include purchasing records for computer software or hardware such as individual personal computers, which are covered by Part 4 of this schedule.

a) Project management records, design documentation, feasibility studies, justifications, user requirements, etc. RETENTION: 3 years after completion of project.

b) Routine status reports, memos, and correspondence. RETENTION: AV. (Exempt from destruction request requirement)

***5825-16 System Activity Monitoring Records** - Electronic files or automated logs created to monitor computer systems such as print spool logs, console logs, tape activity logs, etc. RETENTION: AV. (Exempt from destruction request requirement)

***5825-17 Training Course Information** - Memoranda, flyers, catalogues, registration forms, rosters, and other records documenting training courses provided users of electronic records systems. RETENTION: AV. (Exempt from destruction request requirement)

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General Services Commission Request For Proposal (RFP) Guidelines For State Agencies



RFP HANDBOOK

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CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this bid, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this bid is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this bid is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this bid that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.